SENATE.

MONDAY, *April 16, 1906.*

Prayer by the Chaplain, Rev. EDWARD E. HALE.

The Journal of the proceedings of Saturday last was read and approved.

FINDINGS OF COURT OF CLAIMS.

The VICE-PRESIDENT laid before the Senate a communication from the assistant clerk of the Court of Claims, transmitting a certified copy of the findings of fact filed by the court in the case of Octavia R. Polk *v.* The United States; which, with the accompanying paper, was referred to the Committee on Claims, and ordered to be printed.

He also laid before the Senate a communication from the assistant clerk of the Court of Claims, transmitting a certified copy of the findings of fact filed by the court in the cause of Henry W. Lee *v.* The United States and the Winnebago Indians; which, with the accompanying paper, was referred to the Committee on Claims, and ordered to be printed.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. W. J. BROWNING, its Chief Clerk, announced that the House had passed resolutions commemorative of the life and public services of Hon. ORVILLE HITCHCOCK PLATT, late a Senator from the State of Connecticut.

The message also announced that the House had passed resolutions commemorative of the life and public services of Hon. BENJAMIN F. MARSH, late a Representative from the State of Illinois.

The message further announced that the House had passed a concurrent resolution providing that in the enrollment of the bill (H. R. 5976) to provide for the final disposition of the affairs of the Five Civilized Tribes, in the Indian Territory, and for other purposes, the Clerk be directed to restore to the bill the part proposed to be stricken out in the amendments of the Senate Nos. 26, 27, and 41, and insert in lieu thereof certain other matter, etc., in which it requested the concurrence of the Senate.

PETITIONS AND MEMORIALS.

The VICE-PRESIDENT presented the memorial of Henry J. Fitzgerald and 26 other taxpayers of the District of Columbia, remonstrating against the enactment of legislation to provide for the abatement of nuisances in the District of Columbia, and also for the creation of a board for the condemnation of insanitary buildings in the District of Columbia; which was ordered to lie on the table.

He also presented a petition of the American Reciprocal Tariff League, praying for the enactment of legislation to retain the foreign markets for our foreign trade in every direction; which was referred to the Committee on Finance.

He also presented a petition of the American Live Stock Association of Denver, Colo., praying for the enactment of legislation to regulate the interstate transportation of live stock; which was ordered to lie on the table.

He also presented a memorial of the Department of Minnesota, Grand Army of the Republic, of St. Paul, Minn., remonstrating against the enactment of legislation to exclude on account of age the veterans of the civil war from being employed or continuing in employment in the Executive Departments, etc.; which was referred to the Committee on Appropriations.

He also presented a petition of the Kings County Republican general committee, of Brooklyn, N. Y., praying for the enactment of legislation authorizing the construction of a second-class battle ship and a collier at the Brooklyn Navy-Yard; which was referred to the Committee on Naval Affairs.

He also presented a petition of sundry ex-slaves and their descendants, citizens of the United States, praying that they be granted pensions; which was referred to the Committee on Pensions.

Mr. PLATT presented a memorial of Local Division No. 92, Amalgamated Association of Street and Electric Railway Employees, of Oswego, N. Y., remonstrating against the repeal of the present Chinese-exclusion law; which was referred to the Committee on Immigration.

He also presented a petition of the Kings County Republican general committee, of Brooklyn, N. Y., and a petition of the Flatbush Taxpayers' Association, of Flatbush, N. Y., praying for the enactment of legislation providing for the construction of a United States battle ship at the Brooklyn Navy-Yard; which were referred to the Committee on Naval Affairs.

He also presented a petition of sundry citizens of Rushford, N. Y., praying for an investigation of the charges made and filed against Hon. REED SMOOT, a Senator from the State of Utah; which was referred to the Committee on Privileges and Elections.

He also presented a petition of Local Council No. 13, Daughters of Liberty, of Brooklyn, N. Y., and a petition of Local Council No. 74, Daughters of Liberty, of Port Washington, N. Y., praying for the enactment of legislation to restrict immigration; which were referred to the Committee on Immigration.

He also presented a petition of Local Union No. 238, American Federation of Musicians, of Poughkeepsie, N. Y., praying for the enactment of legislation to regulate the employment in the bands of the country of enlisted men in competition with civilians; which was referred to the Committee on Military Affairs.

He also (for Mr. DEPEW) presented petitions of the Woman's Republican Club of New York City, of the National Association of New England Women of New York City, of the New Century Club of Utica, of the Travelers' Club of Olean, of the Woman's Educational and Industrial Union of Buffalo, of the General Federation of Women's Clubs of Kingston, of the General Federation of Women's Clubs of Canajoharie, of the General Federation of Women's Clubs of Flushing, of the General Federation of Women's Clubs of Olean, of the General Federation of Women's Clubs of Rochester, of the General Federation of Women's Clubs of Oneida, of the Westchester Women's Club, of Mount Vernon, and of the Minerva Club, of New York City, all in the State of New York, praying for an investigation into the industrial conditions of the women of the country; which were referred to the Committee on Education and Labor.

He also (for Mr. DEPEW) presented a memorial of the Horticultural Society of New York City, N. Y., and a memorial of the New York Florists' Club, of New York City, N. Y., remonstrating against the free distribution of seeds; which were referred to the Committee on Agriculture and Forestry.

He also (for Mr. DEPEW) presented a memorial of Local Division No. 132, Amalgamated Association of Street and Electric Railway Employees, of Troy, N. Y., remonstrating against the repeal of the present Chinese-exclusion law; which was referred to the Committee on Immigration.

He also (for Mr. DEPEW) presented petitions of Ulster Council, No. 27, Daughters of Liberty, of Bloomington; of Tonawanda Council, No. 117, Junior Order of United American Mechanics, of Tonawanda; of Local Division No. 148, Amalgamated Association of Street and Electric Railway Employees of America, of Albany, and of Guiding Star Council, No. 29, Daughters of Liberty, of Utica, all in the State of New York, praying for the enactment of legislation to restrict immigration; which were referred to the Committee on Immigration.

He also (for Mr. DEPEW) presented a memorial of the American Protective League of New York City, N. Y., remonstrating against the passage of the so-called "Philippine tariff bill;" which was referred to the Committee on the Philippines.

He also (for Mr. DEPEW) presented a memorial of the New York Credit Men's Association, of New York City, N. Y., and a memorial of the Rochester Chamber of Commerce, of Rochester, N. Y., remonstrating against the repeal of the present bankruptcy law; which were referred to the Committee on the Judiciary.

He also (for Mr. DEPEW) presented a memorial of the New England Shoe and Leather Association, of Boston, Mass., remonstrating against the passage of the so-called "anti-injunction bill;" which was referred to the Committee on the Judiciary.

He also (for Mr. DEPEW) presented a petition of Local Union No. 43, Musicians' Protective Association, of Buffalo, N. Y., and a petition of Local Union No. 13, Musicians' Protective Association, of Troy, N. Y., praying for the enactment of legislation to prohibit Government musicians from competing with civilian musicians; which were referred to the Committee on Military Affairs.

He also (for Mr. DEPEW) presented a memorial of Tappen Camp, No. 1, Sons of Veterans, of Kingston, N. Y., and a memorial of General Sniper Camp, No. 166, Sons of Veterans, of Syracuse, N. Y., remonstrating against the enactment of legislation to prohibit the wearing of the uniform of the Army, Navy, Marine Corps, or Revenue Service; which were referred to the Committee on Military Affairs.

He also (for Mr. DEPEW) presented a petition of the Baptist, Free Methodist, and Methodist Episcopal churches of Rushford, N. Y., praying for the adoption of an amendment to the Constitution to prohibit polygamy; which was referred to the Committee on the Judiciary.

He also (for Mr. DEPEW) presented a petition of the Historical Society of Rochester, N. Y., praying that an appropriation be made for the restoration of the frigate *Constitution;* which was referred to the Committee on Naval Affairs.

He also (for Mr. DEPEW) presented a petition of the Lin-

næan Society of New York City, N. Y., praying for the enactment of legislation to protect animals, birds, and fish in the forest reserves of the United States; which was referred to the Committee on Forest Reservations and the Protection of Game.

He also (for Mr. DEPEW) presented a petition of the Linnæan Society of New York City, N. Y., praying for the enactment of legislation to prohibit the killing of wild birds and animals in the District of Columbia; which was referred to the Committee on the District of Columbia.

He also (for Mr. DEPEW) presented a petition of Whallonsburg Grange, Patrons of Husbandry, of Whallonsburg, N. Y., and a petition of Cherry Creek Grange, Patrons of Husbandry, of Cherry Creek, N. Y., praying for the enactment of legislation to remove the duty on denaturized alcohol; which were referred to the Committee on Finance.

He also (for Mr. DEPEW) presented a petition of the New York Clearing House Association, of New York City, N. Y., praying for the adoption of an amendment to section 5200 of the Revised Statutes relating to the surplus funds of corporations; which was referred to the Committee on Finance.

He also (for Mr. DEPEW) presented a petition of the Henry Bergh Humane Society, of New York City, N. Y., praying that the bill for the extension of time in the interstate transportation of live stock be referred to the Committee on Interstate Commerce for action; which was referred to the Committee on Interstate Commerce.

He also (for Mr. DEPEW) presented a petition of the Chamber of Commerce of Troy, N. Y., praying for the enactment of legislation providing for an increase in the salaries of clerks in post-offices of the second class; which was referred to the Committee on Post-Offices and Post-Roads.

He also (for Mr. DEPEW) presented a petition of Cherry Creek Grange, Patrons of Husbandry, of Cherry Creek, N. Y., praying for the passage of the so-called "Hepburn-Dolliver railroad rate bill;" which was ordered to lie on the table.

He also (for Mr. DEPEW) presented a memorial of the Erie County Society for the Prevention of Cruelty to Animals, of Buffalo, N. Y., remonstrating against the enactment of legislation to extend the time for the interstate transportation of live stock; which was referred to the Committee on Interstate Commerce.

He also (for Mr. DEPEW) presented a petition of the Humane Society of Auburn, N. Y., praying that Senate bill No. 3413 relative to an extension of time in the interstate transportation of live stock be recommitted to the Committee on Interstate Commerce for consideration; which was referred to the Committee on Interstate Commerce.

He also (for Mr. DEPEW) presented a petition of 25 citizens of Buffalo, N. Y., praying for the enactment of legislation to prevent the impending destruction of Niagara Falls on the American side by the diversion of the waters for manufacturing purposes; which was ordered to lie on the table.

Mr. GALLINGER presented a petition of the Petworth Citizens' Association, of the District of Columbia, praying for the establishment of a practical form of self-government for the District of Columbia; which was referred to the Committee on the District of Columbia.

He also presented the petition of Ray L. Smith, of Washington, D. C., praying for the enactment of legislation providing for the extension of Monroe street; which was referred to the Committee on the District of Columbia.

He also presented the memorials of W. W. Price and S. M. Hamilton, citizens of the District of Columbia, remonstrating against the enactment of legislation providing for the extension of Monroe street; which were referred to the Committee on the District of Columbia.

He also presented the petition of Capt. J. Walter Mitchell, national historian and secretary of the committee on legislation of the United Spanish War Veterans, of Washington, D. C., praying for the establishment of a temporary home for Union soldiers and sailors; which was referred to the Committee on the District of Columbia.

He also presented a petition of the Northeast Washington Citizens' Association, of the District of Columbia, praying for the enactment of legislation to regulate the practice of osteopathy in the District of Columbia; which was ordered to lie on the table.

He also presented a petition of the Women's Health Protective Association of New York, praying for the enactment of legislation to regulate the employment of child labor in the District of Columbia; which was referred to the Committee on Education and Labor.

He also presented a petition of sundry citizens of Franklin Falls, N. H., praying for the enactment of legislation to restrict immigration; which was referred to the Committee on Immigration.

He also presented a petition of the Woman's Club, of Rochester, N. H., praying for an investigation into the industrial condition of women in the United States; which was referred to the Committee on Education and Labor.

Mr. KEAN presented the petition of Dr. L. D. Thompkins, of Trenton, N. J., praying for the enactment of legislation granting relief to the widow of Col. C. W. Stryker, deceased; which was referred to the Committee on Military Affairs.

He also presented the petition of Herman G. F. Hunz, of Elizabeth, N. J., praying for the enactment of more stringent naturalization laws; which was referred to the Committee on the Judiciary.

He also presented a petition of Local Lodge No. 22, Brotherhood of Locomotive Firemen, of Camden, N. J., praying for the passage of the so-called "employers' liability bill;" which was referred to the Committee on Interstate Commerce.

He also presented a petition of the Woman's Christian Temperance Union, of Bergen County, N. J., praying for an investigation of the charges made and filed against Hon. REED SMOOT, a Senator from the State of Utah; which was referred to the Committee on Privileges and Elections.

He also presented the memorial of Robert Biddle, of Riverton, N. J., remonstrating against the enactment of legislation to regulate the granting of restraining orders in certain cases; which was referred to the Committee on the Judiciary.

He also presented petitions of Daniel Webster Council, No. 160, Junior Order United American Mechanics, of Newark; of Pride of Mechanics, Home Council No. 61, Daughters of Liberty, of Jamesburg; of Passaic Falls Council, No. 137, of Paterson; of Local Council No. 10, Daughters of Liberty, of Elizabeth; of Elizabeth Council, No. 10, Daughters of Liberty, of Elizabeth; of H. P. Wyckoff, of Raritan, and of Mrs. Lydia T. Wright, of Paulsboro, all in the State of New Jersey, praying for the enactment of legislation to restrict immigration; which were referred to the Committee on Immigration.

He also presented petitions of Charles W. Errickson, Howard Clayton, A. P. Clayton, Lester Applegate, H. M. Brower, William F. Madge, Perry Stillwell, Frank Reid, C. H. Okerson, all of Adelphia; Howard F. White, Anthony Elmer, Charles Taylor, Hezekiah White, all of Asbury Park; Harry Hammond, Peter P. Bush, Edward N. Smith, all of Allendale; William A. Jones, C. Robbins, Minnott Ridgway, C. H. Brandt, O. G. Larson, Clarence E. Woodmansee, F. W. Lear, Ernest Reeves, A. T. Cox, Andrew Brown, J. I. Birdsall, Joseph Walton, Lars Eric Larson, William Camp, W. H. Blake, William Brown, R. G. Collins, Charles A. Estlow, Edward H. Russell, Jeff. Woodmansee, J. A. Couch, Thomas Woodmansee, William Robinson, R. F. Elberson, C. H. Russell, C. N. Conrad, Theodore Hollaway, Edwin D. Birdsall, John K. A. Cox, Amos A. Bahr, F. S. Ellis, Ira S. Salmons, Norman Ridgway, George Grant, Daniel Brewer, Samuel G. Cranmer, A. D. Tolbert, William Ridgway, James Winton, jr., John Brown, all of Barnegat; Winfield G. Rhubart, of Bordentown; Harry S. Johnson, William P. Thomas, William B. Larue, James V. N. Polhemus, Rev. E. E. Roberson, Bayard Naylor, H. D. Powelson, J. R. Haoll, F. G. Sutton, John Rowland, B. F. Clark, Edward B. Rowland, Jason Tester, John H. Verhoff, O. V. Matthew, A. K. Smith, Charles Wendell, P. W. Vandane, Fred R. Mason, John W. Reed, George T. Miller, A. F. Kuntz, J. R. Booney, Clarence Duryea, Eugene Duryea, all of Boundbrook; Jesse S. Taggart, Charles W. Price, E. H. Prickett, Edwin M. Seeper, Samuel G. Shaw, John Durell, George E. Garrison, Edwin R. Lowdan, John H. Oliver, G. Roland Oliver, Lerold Greenfield, all of Burlington; Theodore F. Hineson, Edward Tunn, Edward Curtis, G. A. Manwaring, William H. Kimring, G. R. Clisdell, E. A. Tunn, Robert H. Scott, Fred Valentine, B. B. Benton, J. F. Yinling, Thedore H. Smith, William Schuletre, Robert W. Edwards, George E. Welbrecht, William Vreeland, George A. Bell, J. B. Kenney, Thomas G. Vreeland, George D. Solomon, Nelson K. Kline, F. S. Turbett, Henry E. Dawkin, Sylvanus W. Clark, E. H. Miller, J. H. Collier, George Peters, Charles A. Rubinman, A. M. Van Buskirk, George W. Morton, A. G. W. Hilbert, David Thomas, O. H. Gaeechee, all of Bayonne; William A. Evans, Arthur Woolson, Herbert W. Heal, Harry Husler, Charles W. Sever, Harold H. Van Sciver, all of Beverly; William H. Sloan, Otis A. Penn, E. W. Nick, Woody W. Carnmer, W. I. Coude, all of Brookville; Ellis Demond, of Bernardsville; Harry F. Gray, William F. Lukens, of Camden; George Hughes, of Clifton; Walter E. Reinhart, of Crawford; J. Frank Weekes, Lewis G. Eldridge, of Cold Springs; G. B. English, W. H. Howard, J. W. Spencer, A. M. Nelson, A. J. Sevens, Herbert Bane, Robert W. Lewis, Theodore Schubert, H. U. Clark, M. L. Batton, William Wilson,

George W. Tooney, William T. Tooney, Herbert Bane, William B. Baton, all of Chews; Fred W. Cook, William J. Bowden, Ira C. Ford, John R. Edwards, all of Dover; William F. Hurlis, Adam Hurlis, H. J. Case, Charles S. Jennings, J. F. Snell, Jacob V. C. Bruss, John Peters, jr., William Shiverly, Lewis Snyder, John H. Conklin, R. M. Apgar, Fred S. Vail, William C. Brokaw, W. W. Wallers, J. F. G. Kinney, Edward G. Lewis, E. E. Shibely, all of Dunellen; R. R. Hugo, William G. King, jr., William J. Frank, A. Kirsch, Charles E. Tilton, H. C. Hurt, S. D. Crow, Harry C. Trowbridge, E. P. Mutch, Theodore H. Boulton, John F. Healey, Charles F. Roll, L. A. Lockhart, Herman G. F. Kunz, William Kunz, sr., Charles Fischer, H. Unbekant, Lester W. Voorhees, all of Elizabeth; A. E. Dodelin, E. O. Lusinberg, of East Orange; Frederick C. Thubert, Harold P. Cox, of Elmer; Forman Vandoran, William E. Tracy, Thomas Forsythe, all of Englishtown; W. E. Nora, of Rutherford; Arthur C. Stillwell, A. S. Lambertson, Robert J. Pharo, Clarence M. Robinson, F. C. Morris, Andrew C. Campbell, Walter Stillwell, Elwood Stillwell, W. Ryall Burtis, H. L. Jewell, Albert W. Armstrong, Herbert Robinson, Romain H. Rue, George A. Emmons, E. S. Goff, Charles Lyher, G. W. Naylor, Macy Applegate, Joseph C. Thompson, D. Dye Conover, William A. Hawknow, Charles H. Griggs, Thomas Williams, Eleanor King, Mary H. Lukens, Mrs. Kate M. Bowne, Mrs. Ella Atkinson, Joanna Stillwell, all of Freehold; J. E. Seyler, of Finville; William Vandeventer, of Flemington; Josiah Butler, William Mackentee, W. H. Stewler, John Allen, E. J. Stryker, Edward Case, G. W. Hummer, E. W. Bloom, J. C. Hugh, L. S. Mayaman, Charles B. Salter, all of Flemington; Russell Skinner, F. A. Howman, Harry C. Shute, Herman Houck, A. A. Weismer, Blande R. Screve, Joseph H. Stewart, all of Glassboro; John W. Martin, Chester White, Edwin Hurley, John S. Hultz, Joseph G. Morris, Charles Yeoman, Elwood F. Palmer, Russell Morris, Arthur Fletcher, David E. Manners, all of Glendola; John R. Patrey, of Gladstone; Crawford P. Smith, W. G. Degrew, of Glen Ridge; James Doremus, of Garfield; George Dirks, William D. Newman, W. V. Van Vorse, George M. Leonard, A. C. Dobe, O. A. Bedford, C. E. Veider, H. C. Ball, M. N. Marsh, William L. Campbell, R. H. Gilbert, Harry B. Doremus, P. H. Westerfeldt, C. De Witt Gilbert, Irving Devoe, Thomas H. Richards, C. B. Newman, George Dirks, Robert J. Bross, Harry S. Demarest, Henry Vanvorst, W. Earl Griffith, E. L. Allen, James T. Benjamin, Alfred Sykes, Adelbert C. Doughty, William Feltor, Charles S. Lozier, C. S. Schuebly, William Wyks, Joseph Wyks, all of Hackensack; Ira Wilson, James Ewing, Harry E. Sutthen, J. R. Baldwin, Israel G. Howell, Raymond Morell, W. S. Baldwin, John Hamm, Albert W. Burton, Clarence E. Hoagland, Joseph Scharch, Nelson W. Holcombe, C. C. Conner, R. R. Piggott, Alvin Meselwell, Daniel P. Holcombe, Lewis S. Breese, John McPherson, Charles H. Wyckoff, E. V. Savidge, H. B. Edwards, Peter A. Luttken, all of Hopewell; W. A. Cruser, A. V. Albertson, William C. Raub, A. B. Swayze, James W. Sabercool, Floyd McCain, R. J. Islendberger, Frank Kerr, Jacob D. Quick, Walter Storm, D. D., Herbert D. Heiser, P. H. Hartong, C. E. Bryant, M. B. Titman, A. A. Van Horn, Ernest H. Willson, F. Turner, George Albertson, Joseph Anders, George Cole, Joseph Owens, A. D. Hildebrant, Charlie Warner, J. Irving Van Horn, A. S. Howell, William H. Bowers, John Dill, J. H. Van Camper, C. E. Bryan, Frank Shotwell, Lewis Hindebrant, R. S. Trasen, Clinton Hindebrant, Isaac Gibbs, W. W. Seals, M. C. McCain, George Andrews, W. R. Swayze, E. Y. Cleypers, Alfred Rwidge, Oscar Crisman, William Mericle, C. J. Sharp, I. J. Hickson, Garrett Howell, Ed. Swayze, H. P. Titus, Daniel M. Pittinger, all of Hope; George W. Levy, H. H. Stein, C. Scharf, Harry Baritone, H. A. Schraper, Lewis W. Paulton, Russell P. Merrick, John E. Ratgigeler, W. H. Fords, John W. Jopp, Frederick Malley, Ernest Craslin, Charles Jacobs, George Kerwis, J. C. Miller, William J. Taylor, C. P. Robertson, Conrad Lachmon, jr., Charles Buresch, Melvin Heimer, Theodore M. Luker, Alfred A. Ludlow, Lawrence M. Yard, all of Hoboken; Frank A. Reynolds, of Harrison; Augusta V. Lunger, of Hibernia; J. B. Kiser, of Hohokus; Samuel Tate, of High Bridge; George R. Doremus, of Hackensack; Charles E. Wells, George Bruns, Edward P. Lyons, W. E. Bruns, F. J. Bruns, Joseph Bruns, Edward S. Rice, J. M. Nixon, Robert Abel, E. A. La Vigne, E. T. Perkins, Alfred C. Daniel, J. L. Anderson, Henry T. Hurton, jr., Charles T. Nelson, Harry Newkirk, H. F. Kiesewetter, A. Lahse, Frank G. Coykendall, Samuel Kline, James N. Long, F. B. Van Sandt, E. Ridgway, Charles K. Sutton, William H. Corby, W. E. Price, W. Mutscheller, H. R. Ruinello, William Travers, Joseph Davis, J. M. Fallbatter, Harry Schmidt, John Larbs, E. F. Warner, E. S. Godfrey, John Rumpf, W. H. Best, Charles Mauer, jr., George C. Krams, all of Jersey City; J. B. Paxton, Ernest Cole, R. H. Cole, D. H. Smith, all of Jamesburg; Charles E. Archer, of Jenkinstown; Peter Stumpf, jr., Frank Venentine, Frank G. Cole, H. Williams, Louis Barth, Fred Rarick, H. Bostecl, Albert Ebner, Harry Straight, C. DeMott, Ira Scark, all of Kenvil; William E. Turner, jr., H. W. Guttevet, Irving Walderon, J. F. Foster, Charles B. Condit, James B. Trimmer, F. W. Hammond, Alexander Annis, F. W. Stultman, W. L. Allen, William A. Burrs, L. H. Hughes, Levi Thompson, Theodore Stelton, Albert W. Salmons, Henry B. Ronell, C. L. King, C. P. Burr, jr., Herbert Creek, Frank Edwards, John Edwards, William W. Conklin, Raymond Haines, Frank P. Salmons, Jacob Schornf, all of Liberty Corner; F. W. Van Blarcom, of Lafayette; David Wilkeson, of Ledgewood; Walter S. Ogden, of Lindenwold; William Johnson, of Landing; Henry Jaunt, William M. Voorhees, W. D. Mason, Thomas P. Yunker, W. A. Smith, G. B. Brown, Spencer H. Howell, D. H. Stermer, J. H. Ried, J. P. T. Warwick, F. E. Shinn, George W. Carr, L. Gerwald, J. R. Warwick, Charles E. Mathers, Raymond Smith, all of Lumberton, all in the State of New Jersey, praying for the enactment of legislation to establish a Bureau of Immigration and Naturalization and to provide for a uniform rule for the naturalization of aliens throughout the United States; which were referred to the Committee on Immigration.

He also presented petitions of G. E. Riggen, Linwood; George W. Cobb, Albert T. Duryea, William N. Potter, W. W. Miller, Harry Wood, Charles N. McFadden, all of Long Branch; Charles H. B. Lear, Watson Dudbridge, Theodore C. Hall, all of Lambertville; R. S. Tomlinson, Merchantville; George Whitmore, Idvis Powell, Warren Whitmore, all of Mine Hill; William Pierce, Mount Hope; Lewis F. Mason, Montclair; Augustus M. Martin, William A. Morris, Harvey A. Martin, M. Oppelt, Walter P. Schendt, all of Metuchen; Chester A. O. Keson, E. W. Crenning, E. C. Hodapp, all of Milltown; William D. Shinn, F. O. Durand, Earl L. Evermind, Benj. H. Sleeper, S. A. Dobbins, jr., all of Mount Holly; J. C. Stiles, Joseph H. Rimback, George M. Hallum, Charles E. Vanfleet, E. L. Corler, jr., George W. Parson, J. C. E. Scmely, H. F. Morrison, M. B. Sellance, W. H. Tompkins, all of Millburn; Bernett Adams, William J. Stiles, George Bolster, Samuel Clumm, Harry Shropshire, Charles E. Hogan, all of Millville; William M. Ross, J. Fred Orphan, John H. Metcalf, C. S. Hubbard, William Mesler, A. O. Rapploray, F. Cranford, Charles H. Dunham, Mindirt Cubberly, Julius Rolp, William J. W. Allen, George E. Schnidt, Daniel R. Richards, Garrett Griggs, John A. Montgomery, A. N. Winkler, Joseph R. Stokes, all of New Brunswick; E. T. Humphrey, Nutley; Harry Wilcox, Thomas Hilwriggle, Anthony T. Kalan, E. F. Krout, George Berger, William E. Sutton, Walker M. Loder, Henry McCondey, H. D. Falidge, jr., John T. Brustle, John L. Lipman, F. C. Smith, Philip Krugg, W. Lang Warner, St. Q. Creavel, W. A. Duryea, F. E. Brown, Samuel J. Morris, H. H. Fielder, S. W. Crumple, G. H. Henzey, Fred P. Fritz, George B. Jones, Walter G. McClusky, William H. Meeker, John F. Ward, F. Hartens, A. C. Tuttle, William D. Nestor, H. J. Buehler, John D. Fenwick, August G. Swanze, J. Brower, E. C. Cash, George F. Throw, William Stern, E. D. Smith, Wilton Cox, W. H. Earl, Samuel Bogel, William Kippack, Robert Sloan, jr., H. P. Latturet, J. P. Brewster, F. G. Bowles, H. E. Berden, Alfred H. Chamberlain, Abram Crimminson, Eddie Amann, L. H. Cash, Lewis White, George V. Verry, George E. Dale, John A. Reemes, Lewis F. Holmes, William L. White, R. Calhoun, jr., J. B. Macpherson, C. S. Rosangle, Bernard Bailor, Albert F. Framan, H. F. Buhler, A. G. Lane, W. C. Flammer, W. C. Dueuler, E. C. Cash, Charles E. Bushler, H. F. Steele, George Taylor, Henry Kunmann, G. A. Mills, Clarence B. Hoagland, Claude Valentine, Albert F. Klein, Joe Kling, L. H. Cash, Fred O. Brown, William M. Cale, George E. Higby, J. B. Badger, W. C. Eveland, jr., T. J. Bummell, George Steinlach, F. H. Price, Carl Schultz, Charles C. Bishop, John C. Rall, Arthur I. Smith, George H. Bowman, E. A. Shay, Charles Steinback, A. Irving Jenkins, F. R. Clark, George W. Fitz Gerald, Thomas M. Nichols, G. J. Schawinghausen, J. W. Fitz Gerald, John C. Rall, F. A. Morgan, John Crowell, Robert Phillips, Charles R. Nunn, John W. Savacorf, Fred A. Phillips, William Jacobs, J. E. Metick, Charles S. Lair, Conrad A. Mess, Lewis Hunt, all of Newark; Howard B. West, Long Branch; Henry J. Lamb, New Durham; F. E. Smith, Orange; Arthur Lippincott, Lloyd N. Sickles, Lewis M. Van Anglen, William W. Morris, all of Oceanport; Charles J. Smith, John Bishop, Oakhurst; W. Sylvester, M. Leighton Appleby, Alonzo Green, Robert Boyee, Theo. F. Appleby, all of Old Bridge; H. A. Shoobridge, Harvey Golden, A. F. Munoz, John Torgesen, M. Hurley, W. Lembcke, Clarkson Bourse, John M. Berry, George M. Adams, Walter Richutzer, John E. Bernard, William F. Hilkee, Joseph B. Quick, Gilbert C. Emmons, W. H. Bath, S. F. Braidwood, George E. Morehouse, William S. Duncan, Gardner F. Carter, D. M. Emmons, W. V. Emmons, Rolla Garretson, George H. Ryder, all of Perth Amboy; Raymond Sharp, A. Hile, Walter J.

Warren, jr., Leonard Berry, John Reading, Ogden Shropshire, B. C. Donnelly, H. C. Barraclough, Osse L. Dickel, E. J. Crab, Howard Henderson, E. D. T. Howell, Claude Hiles, Oscar Wilford, Leslie Blackman, L. R. Fowler, E. B. Peace, Alphie Owens, A. B. Maxfield, Lemuel R. Brown, Gustavus H. Higgnutt, Charles J. Maxfield, H. S. Sockwell, Joseph L. Lake, Albert Robbins, all of Port Morris; John Wesley Potter, M. B. Huyler, Irvin Trimmer, Halsey Hoffman, W. Irving Ludlow, F. H. Ludlow, all of Peapack; Harvey Dutchess, William H. Conklin, George H. Briggs, Orrie Ruttenberg, all of Paterson; Bostene Thorn, A. F. Mott, C. P. Wilson, Francis Berns, W. S. Chambers, Douglass Woodward, Edward Thompson, J. H. Hoover, A. B. Chamberlain, Fred. G. Davison, Charles Griffith, Frank Patterson, Joseph G. Clark, Howard Patterson, John H. Ely, George M. Dorrin, C. Allen Ely, Thomas Thompson, E. H. Potter, all of Perrineville; K. J. Hewitt, Sinclair Boice, Lewis S. Bower, C. E. Steelman, H. E. Parcels, Harry L. Lake, E. Small, Archie Risley, L. Hewitt, Charles Bauer, all of Pleasantville; Clarence H. Bilyen, jr., Joseph M. Sweeney, T. E. Crumm, jr., John E. Naylor, C. N. Beiter, George Townley, Forrester Hartpence, R. Winn, W. W. F. Randolph, Resue Magee, James M. Vail, William Pittenger, W. C. Walker, P. H. Litowett, C. W. Mower, C. F. Hulit, George F. Watts, F. G. Wehr, J. C. Hofner, George H. Staats, W. G. Creveling, W. J. Hartpence, A. E. Causbrook, C. T. Platt, Frank H. Cond, John G. Bicknell, George W. Solley, W. L. Smalley, Frank Ayar, John J. Kliner, jr., A. T. Stryker, J. Brunn, Edward E. Nelson, F. M. Legge, W. La Tourette, G. W. Harvey, Frederick L. Soper, Alice B. Dunham, Ellis H. Emery, D. Rockfellow, J. M. Sull, P. H. Blosette, Walter C. Walker, A. C. Aitken, J. Arthur Dow, E. D. Ganin, George Wunderlich, William Newmiller, jr., R. J. Meten, George B. Crassley, L. C. R. Dunham, T. M. Slater, jr., Daniel G. Van Winkle, Fred. Win, all of Plainfield; H. B. Van Sciver, Riverside; Andrew Rau, William A. Hackett, F. E. Graham, J. T. Riker, jr., W. G. Current, J. Louis Lempert, E. Holehvin, F. S. Current, S. Shaw, jr., C. N. Stanton, Watson Current, H. H. Edwards, Ray W. Tyler, J. H. Wilson, George H. Bellar, F. H. Conklin, S. C. Bellar, George Guckenbuchler, W. H. Hallock, Josephus C. Tares, F. C. Hooper, Edward T. Smith, all of Rutherford; Robert A. Doremus, J. H. Hicks, Ramsey; John K. Thompson, B. V. D. Wyckoff, F. N. Cole, all of Readington; Joseph A. Oakley, H. N. Bungut, J. T. Tumont, Walter G. Hoehler, William Ochler, C. B. Trimmer, H. Lewis Leites, all of Roselle; E. E. Horton, Ridgewood; A. P. Brower, Rahway; Charles M. Earl, John M. Gustin, A. J. Yetter, Edward J. Blanchard, all of Rockaway; William H. Bennett, A. C. Blanchy, all of Red Bank; J. B. Vandenberg, Carlos H. Fogg, Thomas Price, Peter Wentink, all of Ridgewood; Edward J. King, C. K. Alpaugh, J. Williams, Headley Roy, Fred. Thomas, Leslie Ackerson, Daniel Williams, Bert V. Cit, Zanes Ridner, Lewis Coleman, John Treloan, Harry W. Reeve, George Hill, L. G. Banks, David Thomas, John W. Fancher, Al. Fancher, G. W. Thrope, George Rewe, all of Succasunna; Gus Galley, William J. Scherer, Walter Weishaupt, N. T. Devoe, Gus Galey, Will Pratts, Edward Culver, Harvey Van Deventer, Fred. Claus, Fred. Scherer, William M. Delbart, all of South River; Isaac A. Sayre, Summit; William B. D. Slocum, David Slocum, Summerfield; L. Van Iderstine, South Orange; James C. Ross, Seaville; Arthur Streeter, Isaac N. Wyckoff, Charles P. Rimehart, John Tine, George J. F. Skillman, W. G. Kershaw, H. R. Mesler, C. W. Seip, William H. T. Fleet, A. G. Crouse, N. C. Alvord, William D. Bauer, H. A. Bird, Clarence C. Wyckoff, S. B. Pittenger, all of Somerville; Charles H. Hull, Stanhope; C. H. Berries, George Disbrow, Ben. Strausser, jr., John A. Rue, William G. Wyckoff, N. N. Pearce, J. D. Nichols, A. R. Chatten, F. M. Littell, Harvey Emmons, John T. Dill, S. H. Chatten, O. L. Carr, William E. N. Waugh, Edwin P. Wilson, George V. Bogart, J. Wright Naylor, William H. Brunnigan, J. W. Buckanan, H. E. Stratton, Charles P. Thomas, A. R. Mitchen, Elias S. Mason, Albert M. Cole, James K. Stukes, G. Van Deventer, William C. Chosy, Clarence E. Applegate, J. A. Kerr, H. T. Bush, Andrew Sprague, Frank F. Dye, L. O. Dobson, William H. Cline, George Tauser, W. Burt Deitrich, William R. Thompson, A. A. Wilson, Philip F. Render, L. Van Cleef, I. E. Montgomery, Alonzo L. Grace, Edw. M. Kenna, W. M. Emmons, William P. Nichols, B. R. Havens, John Letts, H. F. C. Atkinson, jr., Henry M. Dill, J. R. Skinner, all of South Amboy; Chauncey M. Slayton, P. J. Poppingar, Abram Embly, Frank Hampton, Thomas A. Garden, William F. Shipman, Baker Clork, T. Handpacker, all of Sea Bright; Watson M. Ward, S. D. C. Layton, Walter W. Anderson, William O. Gerry, E. C. Marshall, Jacob Yetter, William Jedder, all of Trenton; S. R. Harris, Toms River; Joseph H. Brown, C. A. Falkinburg, Benjamin L. Armstrong, Alphonso W. Kelley, all of Tuckerton; J. L. Teas, G. Charles Sahalan, Henry Schaeschinger, all of Union Hill; W. Clark Taylor, Vineland; Lewis S. Fife, S. Morris Hewitt, I. F. Conover, John Rodrian, all of Woodstown; Howard Fritz, George F. Snyder, Henry F. Mummey, T. M. Shrope, H. U. Florry, all of Washington; Charles R. Jewell, Weehawken; Charles Welcker, Wharton; L. C. Lansen, N. Stareys, George T. Johnson, F. W. Welard, all of Dover; all in the State of New Jersey, praying for the enactment of legislation to establish a bureau of immigration and naturalization and to provide for a uniform rule for the naturalization of aliens throughout the United States; which were referred to the Committee on Immigration.

Mr. RAYNER presented a petition of the congregation of the Grace United Evangelical Church, of Baltimore, Md., praying for the enactment of legislation to prohibit the sale of intoxicating liquors in all Government buildings and Soldiers' Homes; which was referred to the Committee on Public Buildings and Grounds.

Mr. HEMENWAY presented a petition of Lorain Council, No. 10, Daughters of Liberty, of Logansport, Ind., praying for the enactment of legislation to restrict immigration; which was referred to the Committee on Immigration.

He also presented a petition of Railsback Division, No. 452, Order of Railway Conductors, of Richmond, Ind., praying for the passage of the so-called "employers' liability bill," and also the "anti-injunction bill;" which was referred to the Committee on Interstate Commerce.

He also presented a petition of the Clio Club, of Spencer, Ind., and a petition of the Fortnightly Club, of Vincennes, Ind., praying for an investigation into the industrial conditions of the women of the country; which were referred to the Committee on Education and Labor.

He also presented a petition of Local Division No. 317, Amalgamated Association of Street and Electric Railway Employees, of South Bend, Ind., remonstrating against the repeal of the present Chinese-exclusion act; which was referred to the Committee on Immigration.

Mr. DOLLIVER presented the memorial of C. Denecke and sundry other citizens of Cedar Rapids, Iowa, remonstrating against the passage of the so-called "parcels-post bill;" which was referred to the Committee on Post-Offices and Post-Roads.

Mr. HOPKINS presented sundry petitions of the Chamber of Commerce of Quincy, Ill., and a petition of the board of directors of the Second National Bank, of Aurora, Ill., praying for the enactment of legislation relating to uniform bills of lading; which were referred to the Committee on Interstate Commerce.

He also presented petitions of sundry citizens of Chicago, Ill., praying for an investigation into existing conditions in the Kongo Free State; which were referred to the Committee on Foreign Relations.

He also presented petitions of sundry citizens of Marseilles, of the Ravenswood Woman's Club, of Chicago, and of the Argyle Park Portia Club, of Chicago, all in the State of Illinois, praying for the enactment of legislation to prevent the impending destruction of Niagara Falls on the American side by the diversion of the waters for manufacturing purposes; which were ordered to lie on the table.

He also presented memorials of the Amalgamated Association of Street and Electric Railway Employees of Peoria, Venice, and Chicago, all in the State of Illinois, remonstrating against the repeal of the present Chinese-exclusion law; which were referred to the Committee on Immigration.

He also presented a petition of S. G. Tiley Lodge, No. 116, Brotherhood of Railway Trainmen, of Mattoon, Ill., praying for the passage of the so-called "employers' liability bill" and the "anti-injunction bill;" which was referred to the Committee on Interstate Commerce.

He also presented a petition of the Farmers' Institute of Will County, Ill., praying for the enactment of legislation providing for the construction of a ship waterway between the Great Lakes and the Gulf of Mexico; which was referred to the Committee on Commerce.

He also presented a memorial of the Merchants and Business Men's Association of Elgin, Ill., remonstrating against the consolidation of third and fourth class mail matter; which was referred to the Committee on Post-Offices and Post-Roads.

He also presented a petition of sundry citizens of Illinois, praying for the removal of the internal-revenue tax on denaturized alcohol; which was referred to the Committee on Finance.

He also presented a petition of the Bar Association of Quincy, Ill., praying for the enactment of legislation providing for the establishment of a Federal court at that place; which was referred to the Committee on the Judiciary.

Mr. FRYE presented a petition of the Mount Pleasant Grange, Patrons of Husbandry, of West Rockport, Me., praying for the removal of the internal-revenue tax on denaturized alcohol; which was referred to the Committee on Finance.

Mr. WARNER presented sundry papers to accompany the bill (S. 4746) for the relief of George W. Cooper; which were referred to the Committee on Military Affairs.

Mr. NELSON presented a petition of the Department of Minnesota, Grand Army of the Republic, of St. Paul, Minn., praying for the enactment of legislation granting a pension of $12 per month to all widows of soldiers; which was referred to the Committee on Pensions.

He also presented a memorial of sundry citizens of Wabasha, Minn., remonstrating against the licensing of saloons in Alaska and praying for the admission of the Indian Territory into the Union as a prohibition State; which was referred to the Committee on Territories.

He also presented a memorial of the Chamber of Commerce of Minneapolis, Minn., remonstrating against the enactment of legislation to provide for fixing a uniform standard of classification and grading of wheat, flax, corn, oats, barley, rye, and other grains, and for other purposes; which was referred to the Committee on Agriculture and Forestry.

Mr. BURROWS presented a petition of Hamilton Grange, Patrons of Husbandry, of Decatur, Mich., and a petition of Pompeii Grange, Patrons of Husbandry, of Pompeii, Mich., praying for the passage of the so-called "railroad rate bill;" which were ordered to lie on the table.

He also presented petitions of the Michigan Bankers' Association, of sundry citizens of Albion, and of the Board of Trade of Detroit, all in the State of Michigan, praying for the enactment of legislation relating to bills of lading; which were referred to the Committee on Interstate Commerce.

He also presented petitions of the Federation of Labor of Detroit, of the Order of Railroad Trainmen of Detroit, and of the Advance Pump and Compressor Company, of Battle Creek, all in the State of Michigan, praying for the passage of the so-called "anti-injunction bill;" which were referred to the Committee on the Judiciary.

He also presented a petition of sundry citizens of Michigan and a petition of sundry citizens of Pentwater, Mich., praying for an investigation of the charges made and filed against Hon. REED SMOOT, a Senator from the State of Utah; which were referred to the Committee on Privileges and Elections.

He also presented a petition of sundry citizens of Petoskey, Mich., praying for the passage of the so-called "railroad rate bill;" which was ordered to lie on the table.

He also presented petitions of the president and faculty of the Michigan State Normal College, Ypsilanti; of Pomona Grange, Patrons of Husbandry, of Berrien County; of Talmadge Grange, Patrons of Husbandry, of Ottawa County; of the Woman's Christian Temperance Union of Van Buren County, and of sundry citizens of Petoskey, all in the State of Michigan, praying for the removal of the internal-revenue tax on denaturized alcohol; which were referred to the Committee on Finance.

He also presented memorials of Cobbs & Mitchell (Incorporated), of Cadillac, Mich., and of the Mashek Chemical and Iron Company, of Wells, Mich., remonstrating against the removal of the internal-revenue tax on denaturized alcohol; which were referred to the Committee on Finance.

He also presented petitions of the Michigan Business and Normal College, Battle Creek, Mich., and of the Grand Rapids University, Grand Rapids, Mich., praying for the enactment of legislation relating to second-class mail matter; which were referred to the Committee on Post-Offices and Post-Roads.

He also presented a memorial of the Detroit Clearing House Association, of Detroit, Mich., remonstrating against the establishment of a postal savings-bank system; which was referred to the Committee on Post-Offices and Post-Roads.

He also presented a petition of the Oakland County Medical Society, of Pontiac, Mich., praying for the enactment of legislation providing for a reorganization of the Medical Department of the Army; which was referred to the Committee on Military Affairs.

He also presented a petition of the officers of the Third Regiment of Infantry, Michigan National Guard, praying for the enactment of legislation to increase the efficiency of the militia; which was ordered to lie on the table.

He also presented a memorial of the Credit Men's Association of Detroit, Mich., remonstrating against the repeal of the present bankruptcy law; which was referred to the Committee on the Judiciary.

He also presented a petition of the Credit Men's Association of Detroit, Mich., praying for the enactment of legislation providing for the reorganization of the consular service; which was ordered to lie on the table.

He also presented a petition of sundry citizens of Litchfield, Mich., praying for the enactment of legislation to increase the pension of ex-prisoners of war; which was referred to the Committee on Pensions.

He also presented a petition of Musicians' Protective Union, No. 228, American Federation of Musicians, of Kalamazoo, Mich., praying for the enactment of legislation to prohibit the employment in the bands of the country of enlisted men in competition with civilians; which was referred to the Committee on Military Affairs.

He also presented a memorial of the Lansing Humane Society, of Lansing, Mich., remonstrating against the enactment of legislation extending the time for the interstate transportation of live stock; which was ordered to lie on the table.

He also presented petitions of the Clover Leaf Club, of Coloma; of the Woman's Historical Club, and the Woman's Club, of Big Rapids; of the Woman's Club of Saginaw; of the Woman's Club of Ovid; of the Woman's Club of Lansing; of the Ladies' History Club, of Eaton Rapids; of the Woman's Club of Lake Odessa; of the Fortnightly Club, of Lansing; of the Literary Club of East Tawas; of the West Side Club, of Lansing; of the Woman's Club of Mount Pleasant; of the Woman's Club of Traverse City; of the Monday Club, of Marshall; of the Columbia Club, of Flint; of the Home Club, of Lapier; of the Woman's Club of Detroit; of the Woman's Literary Club, of Pontaic; of the Woman's Club of Sault Ste. Marie; of the Woman's Press Association of Hillsdale; of the Woman's Club of Muskegan; of the Equity Club, of Grand Rapids; of the Nineteenth Century Club, of Dowagaic; of the Ladies' Literary Club, of Schoolcraft; of the Art Club, of Saginaw, and of the Woman's Club of Oceana County, all in the State of Michigan, praying that an appropriation be made for a scientific investigation into the industrial conditions of women in the United States; which were referred to the Committee on Education and Labor.

He also presented a petition of the Twentieth Century Club, of Kalamazoo, Mich., and a petition of the Michigan State Federation of Labor, of Kalamazoo, Mich., praying for the enactment of legislation to establish a children's bureau in the Department of the Interior; which were referred to the Committee on Education and Labor.

REPORTS OF COMMITTEES.

Mr. GALLINGER, from the Committee on the District of Columbia, to whom was referred the amendment submitted by himself on the 5th instant, proposing to appropriate $10,500 for grading Upton street east of Connecticut avenue, intended to be proposed to the District of Columbia appropriation bill, reported favorably thereon, and moved that it be printed, and, with the accompanying paper, referred to the Committee on Appropriations; which was agreed to.

He also, from the same committee, to whom were referred the following bills, reported them severally without amendment, and submitted reports thereon:

A bill (H. R. 17217) to amend an act entitled "An act to establish a Code of Law for the District of Columbia," regulating proceedings for condemnation of land for streets; and

A bill (H. R. 14513) to prevent the giving of false alarms of fires in the District of Columbia.

Mr. GALLINGER, from the Committee on the District of Columbia, to whom were referred the following bills, reported them severally with amendments, and submitted reports thereon:

A bill (S. 5246) to provide for the extension of Geneseo place, District of Columbia; and

A bill (S. 5221) to regulate the practice of osteopathy, to license osteopathic physicians, and to punish persons violating the provisions thereof in the District of Columbia.

Mr. SMOOT, from the Committee on Pensions, to whom were referred the following bills, reported them severally without amendment, and submitted reports thereon:

A bill (S. 5673) granting an increase of pension to Hilton Springsteed;

A bill (H. R. 11348) granting an increase of pension to Cynthia Cordial, now Vernon;

A bill (H. R. 14227) granting an increase of pension to Anna C. Bassford;

A bill (H. R. 12407) granting an increase of pension to Robert Bivans; and

A bill (S. 3469) to extend the provisions of the act of June 27, 1902, entitled "An act to extend the provisions, limitations, and benefits of an act entitled 'An act granting pensions to the survivors of the Indian wars of 1832 to 1842, inclusive, known as the Black Hawk war, Cherokee disturbances, and the Seminole war,' approved July 27, 1892."

Mr. SMOOT, from the Committee on Pensions, to whom was

referred the bill (S. 3738) granting an increase of pension to Lisania Judd, reported it with amendments, and submitted a report thereon.

Mr. PILES, from the Committee on Pensions, to whom was referred the bill (S. 993) granting a pension to Samuel J. Langdon, reported it with amendments, and submitted a report thereon.

He also, from the same committee, to whom was referred the bill (S. 4088) granting an increase of pension to Henry S. Knecht, reported it with an amendment, and submitted a report thereon.

He also, from the same committee, to whom were referred the following bills, reported them severally without amendment, and submitted reports thereon:

A bill (H. R. 12888) granting an increase of pension to Jacob Sannar;

A bill (H. R. 12415) granting an increase of pension to Elizabeth Bodkin;

A bill (H. R. 12019) granting an increase of pension to Henry Jacob Fox;

A bill (H. R. 11907) granting an increase of pension to August Danieldson;

A bill (H. R. 13139) granting an increase of pension to William Walrod; and

A bill (H. R. 11824) granting an increase of pension to Jennie P. Starkins.

Mr. BURNHAM, from the Committee on Pensions, to whom were referred the following bills, reported them severally without amendment, and submitted reports thereon:

A bill (S. 5641) granting an increase of pension to John W. Fletcher;

A bill (S. 5571) granting an increase of pension to Betsey B. Whitmore;

A bill (S. 5492) granting an increase of pension to Joseph F. Tebbetts;

A bill (S. 5359) granting an increase of pension to William H. Ward;

A bill (H. R. 15683) granting an increase of pension to Thomas Brown;

A bill (H. R. 15835) granting an increase of pension to George M. Thompson;

A bill (H. R. 15670) granting an increase of pension to Daniel E. Durgin;

A bill (H. R. 15431) granting a pension to Theresa Creiss;

A bill (H. R. 15484) granting an increase of pension to Robert Dick;

A bill (H. R. 15396) granting an increase of pension to John T. Jacobs;

A bill (H. R. 14553) granting an increase of pension to Jesse Lienallen;

A bill (H. R. 14552) granting an increase of pension to Henry Davey;

A bill (H. R. 14853) granting an increase of pension to Helen C. Sanderson;

A bill (H. R. 14782) granting an increase of pension to Michael Manahan; and

A bill (H. R. 13928) granting an increase of pension to Harvey Foster.

Mr. BURNHAM, from the Committee on Pensions, to whom were referred the following bills, reported them each with an amendment, and submitted reports thereon:

A bill (S. 4175) granting an increase of pension to John Caverly;

A bill (S. 5603) granting a pension to Kate S. Hutchings; and

A bill (H. R. 15397) granting an increase of pension to Edward Gillespie.

Mr McCUMBER, from the Committee on Pensions, to whom were referred the following bills, reported them severally without amendment, and submitted reports thereon:

A bill (S. 752) to extend the United States pension laws to the participants in the battles of New Ulm and Fort Ridgely, Minn., in the Sioux war of 1862;

A bill (S. 5691) granting a pension to Kate Sloan;

A bill (S. 5631) granting an increase of pension to Isaac M. Howard;

A bill (S. 5539) granting an increase of pension to Hermann Muehlberg; and

A bill (S. 3485) granting an increase of pension to Mathias Hammes.

Mr. McCUMBER, from the Committee on Pensions, to whom were referred the following bills, reported them each with an amendment, and submitted reports thereon:

A bill (S. 2042) granting an increase of pension to Andrew H. Wolf;

A bill (S. 5504) granting an increase of pension to Joseph Dickson;

A bill (S. 2978) granting an increase of pension to Eli W. Knowles; and

A bill (S. 442) granting an increase of pension to Francis Colton.

Mr. McCUMBER, from the Committee on Pensions, to whom were referred the following bills, reported them severally with amendments, and submitted reports thereon:

A bill (S. 3797) granting an increase of pension to A. E. Wood; and

A bill (S. 3798) granting an increase of pension to Charles Farrell.

Mr. McCUMBER (for Mr. GEARIN), from the Committee on Pensions, to whom were referred the following bills, reported them each with an amendment, and submitted reports thereon:

A bill (S. 2851) granting an increase of pension to George Chambers;

A bill (S. 5536) granting a pension to William O. Clark;

A bill (S. 5379) granting an increase of pension to Otto A. Risum;

A bill (S. 5516) granting an increase of pension to Alfred M. Hamlen; and

A bill (H. R. 15687) granting an increase of pension to William F. M. Rice.

Mr. McCUMBER (for Mr. GEARIN), from the Committee on Pensions, to whom were referred the following bills, reported them severally without amendment, and submitted reports thereon:

A bill (H. R. 15840) granting an increase of pension to Edgar B. Hughson;

A bill (H. R. 15548) granting an increase of pension to Jacob Ferber;

A bill (H. R. 15256) granting an increase of pension to Benjamin F. Greer;

A bill (H. R. 14117) granting an increase of pension to William H. H. Fellows;

A bill (H. R. 13840) granting an increase of pension to Absalom Shell;

A bill (H. R. 13738) granting an increase of pension to Henry Hahn;

A bill (H. R. 13726) granting a pension to Sarah J. Manson;

A bill (H. R. 14116) granting an increase of pension to John P. Rains;

A bill (H. R. 13741) granting an increase of pension to George R. Scott;

A bill (H. R. 13504) granting an increase of pension to Elizabeth Thompson; and

A bill (H. R. 13345) granting an increase of pension to Frank Clendenin.

Mr. McCUMBER (for Mr. TALIAFERRO), from the Committee on Pensions, to whom were referred the following bills, reported them severally without amendment, and submitted reports thereon:

A bill (S. 1705) granting an increase of pension to Lewis S. George;

A bill (H. R. 14498) granting an increase of pension to Eliza Davidson;

A bill (H. R. 14688) granting an increase of pension to Robert Timmons;

A bill (H. R. 12996) granting an increase of pension to Eugene B. McDonald; and

A bill (H. R. 13961) granting an increase of pension to Julius Buxbaum.

Mr. McCUMBER (for Mr. TALIAFERRO), from the Committee on Pensions, to whom was referred the bill (S. 5670) granting an increase of pension to Isaac L. Duggar, reported it with an amendment, and submitted a report thereon.

He also (for Mr. TALIAFERRO), from the same committee, to whom was referred the bill (S. 4665) granting an increase of pension to Louis Du Bois, reported it with amendments, and submitted a report thereon.

Mr. ALGER, from the Committee on Pensions, to whom were referred the following bills, reported them severally without amendment, and submitted reports thereon:

A bill (H. R. 15321) granting a pension to Charles Skaden, jr.;

A bill (H. R. 15621) granting an increase of pension to Caleb M. Tarter;

A bill (H. R. 15487) granting an increase of pension to Truman Aldrich;

A bill (H. R. 14990) granting an increase of pension to Lucius D. Whaley;

A bill (H. R. 15569) granting a pension to Harriet A. Duvall;

A bill (H. R. 15701) granting an increase of pension to William Brown;

A bill (H. R. 15616) granting an increase of pension to Pleasant Calor;

A bill (H. R. 15277) granting an increase of pension to George W. Pierce;

A bill (H. R. 15050) granting an increase of pension to William H. Near;

A bill (H. R. 13862) granting an increase of pension to Luther S. Holly;

A bill (H. R. 12526) granting an increase of pension to Solomon Johnson;

A bill (H. R. 14780) granting an increase of pension to John A. Royer;

A bill (H. R. 10408) granting a pension to Anna E. Middleton; and

A bill (H. R. 13437) granting an increase of pension to Samuel R. Lowry.

Mr. ALGER, from the Committee on Pensions, to whom was recommitted the bill (H. R. 10251) granting an increase of pension to Sarah M. E. Hinman, reported it with an amendment, and submitted a report thereon.

Mr. BURKETT, from the Committee on Pensions, to whom were referred the following bills, reported them severally without amendment, and submitted reports thereon:

A bill (H. R. 11692) granting an increase of pension to John P. Wishart;

A bill (H. R. 14993) granting an increase of pension to Riley M. Smiley;

A bill (H. R. 15061) granting an increase of pension to Ethan Allen; and

A bill (H. R. 15780) granting an increase of pension to Peter Cole.

Mr. SCOTT (for Mr. PATTERSON), from the Committee on Pensions, to whom were referred the following bills, reported them severally without amendment, and submitted reports thereon:

A bill (S. 4752) granting an increase of pension to Thomas J. Tidswell;

A bill (S. 4525) granting an increase of pension to David Oglevie;

A bill (H. R. 10424) granting a pension to Emanuel S. Thompson;

A bill (H. R. 14915) granting an increase of pension to Andrew W. Tracy;

A bill (H. R. 14566) granting an increase of pension to Robert E. McKiernan; and

A bill (H. R. 15380) granting an increase of pension to Valentine Gunselman.

Mr. SCOTT, from the Committee on Pensions, to whom was referred the bill (S. 5054) granting an increase of pension to George H. Woodward, reported it with amendments, and submitted a report thereon.

He also, from the same committee, to whom was referred the bill (S. 3219) granting an increase of pension to Joseph M. Allison, reported it with an amendment, and submitted a report thereon.

He also, from the same committee, to whom were referred the following bills, reported them severally without amendment, and submitted reports thereon:

A bill (H. R. 11654) granting a pension to Emma A. Smith;

A bill (H. R. 8687) granting a pension to William I. Lusch;

A bill (H. R. 10591) granting an increase of pension to Sarah A. Scott;

A bill (H. R. 12534) granting an increase of pension to Richard Reynolds;

A bill (H. R. 14989) granting an increase of pension to Arcatie E. Thompson; and

A bill (H. R. 15240) granting an increase of pension to James W. Fowler.

Mr. NELSON, from the Committee on the Judiciary, to whom was referred the amendment submitted by Mr. HEYBURN on March 6, 1906, proposing to fix the salary of the United States marshal for the district of Idaho at $4,000 per annum, intended to be proposed to the sundry civil appropriation bill, reported favorably thereon, and moved that it be referred to the Committee on Appropriations and printed; which was agreed to.

He also, from the same committee, to whom was referred the amendment submitted by Mr. HEYBURN on March 6, 1906, proposing to fix the compensation of the United States district attorney for the district of Idaho at $4,000 per annum, intended to be proposed to the sundry civil appropriation bill, reported favorably thereon, and moved that it be referred to the Committee on Appropriations and printed; which was agreed to.

He also, from the same committee, to whom was referred the amendment submitted by Mr. FLINT on the 10th instant, proposing to fix the compensation of the United States district attorney for the southern district of California at $4,500 per annum, intended to be proposed to the sundry civil appropriation bill, reported favorably thereon, and moved that it be referred to the Committee on Appropriations and printed; which was agreed to.

He also, from the same committee, to whom was referred the amendment submitted by Mr. FLINT on the 10th instant, proposing to fix the compensation of the United States marshal for the southern district of California at $4,000 per annum, intended to be proposed to the sundry civil appropriation bill, reported favorably thereon, and moved that it be referred to the Committee on Appropriations and printed; which was agreed to.

Mr. KITTREDGE, from the Committee on the Judiciary, to whom was referred the bill (S. 4456) to amend section 10 of the act of March 3, 1887, entitled "An act to provide for the bringing of suits against the Government of the United States," submitted an adverse report thereon; which was agreed to, and the bill was postponed indefinitely.

He also (for Mr. KNOX), from the Committee on the Judiciary, to whom were referred the following bills, reported them severally without amendment, and submitted reports thereon:

A bill (S. 5533) to appoint an additional judge for the southern district of New York; and

A bill (H. R. 9721) to amend section 5481 of the Revised Statutes of the United States.

Mr. OVERMAN, from the Committee on Pensions, to whom were referred the following bills, reported them severally without amendment, and submitted reports thereon:

A bill (S. 4239) granting an increase of pension to Job Rice;

A bill (S. 5659) granting an increase of pension to William I. Brewer;

A bill (H. R. 8475) granting a pension to John F. Tathem; and

A bill (H. R. 12059) granting an increase of pension to Mildred W. Mitchell.

Mr. OVERMAN, from the Committee on Pensions, to whom were referred the following bills, reported them each with an amendment, and submitted reports thereon:

A bill (S. 5658) granting an increase of pension to Nancy Pruit;

A bill (H. R. 11635) granting an increase of pension to Jeremiah Lunsford; and

A bill (S. 5343) granting an increase of pension to Ernest H. Wardwell.

Mr. DILLINGHAM, from the Committee on the Judiciary, to whom was referred the bill (H. R. 15910) to amend the act entitled "An act to regulate commutation for good conduct for United States prisoners," approved June 21, 1902, reported it without amendment, and submitted a report thereon.

JOHN B. LEE.

Mr. SCOTT. On behalf of the Senator from Colorado [Mr. PATTERSON], I report back from the Committee on Pensions the bill (S. 4760) granting an increase of pension to John B. Lee, with an amendment, and I submit a report thereon. I call the attention of the Senator from Missouri [Mr. WARNER] to the bill.

Mr. WARNER. Mr. President, this is a distressing case. Relief will have to be granted soon, if at all. Therefore I ask unanimous consent for the present consideration of the bill just reported by the Senator from West Virginia.

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the bill.

The amendment of the Committee on Pensions was, in line 6, before the word "Company," to strike out "of" and insert "captain;" so as to make the bill read:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of John B. Lee, late captain Company D, Fourth Regiment Kentucky Volunteer Cavalry, and pay him a pension at the rate of $50 per month in lieu of that he is now receiving.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

BILLS INTRODUCED.

Mr. McCUMBER introduced a bill (S. 5697) granting an increase of pension to George H. McLain; which was read twice by its title, and, with the accompanying paper, referred to the Committee on Pensions.

Mr. GALLINGER introduced a bill (S. 5698) to regulate the practice of veterinary medicine in the District of Columbia; which was read twice by its title, and, with the accompanying paper, referred to the Committee on the District of Columbia.

Mr. PLATT introduced the following bills; which were sev-

erally read twice by their titles, and referred to the Committee on Pensions:

A bill (S. 5699) granting an increase of pension to Adelaide D. Merritt; and

A bill (S. 5700) granting an increase of pension to Stacy B. Warford.

Mr. PLATT introduced a bill (S. 5701) to correct the military record of H. Clay Stewart; which was read twice by its title, and referred to the Committee on Military Affairs.

He also (for Mr. DEPEW) introduced a bill (S. 5702) granting a pension to Anna C. Bingham; which was read twice by its title, and referred to the Committee on Pensions.

Mr. BLACKBURN introduced a bill (S. 5703) for the relief of the State of Kentucky; which was read twice by its title, and referred to the Committee on Claims.

Mr. WETMORE introduced a bill (S. 5704) granting an increase of pension to Ruth P. Pierce; which was read twice by its title, and, with the accompanying papers, referred to the Committee on Pensions.

Mr. CLAY introduced a bill (S. 5705) for the relief of Thomas F. Hastings; which was read twice by its title, and referred to the Committee on Claims.

Mr. HOPKINS introduced the following bills; which were severally read twice by their titles, and referred to the Committee on Pensions:

A bill (S. 5706) granting a pension to Ellen J. Propst (with an accompanying paper); and

A bill (S. 5707) granting an increase of pension to James E. Bates.

Mr. HEMENWAY introduced a bill (S. 5708) granting an increase of pension to Nathalia Boepple; which was read twice by its title, and referred to the Committee on Pensions.

Mr. DOLLIVER introduced a bill (S. 5709) to correct the military record of Nicholas Dunfee; which was read twice by its title, and referred to the Committee on Military Affairs.

He also introduced a bill (S. 5710) granting an increase of pension to Samuel M. Daughenbaugh; which was read twice by its title, and, with the accompanying papers, referred to the Committee on Pensions.

Mr. CLARKE of Arkansas introduced a bill (S. 5711) granting pensions to certain officers and men of the Fourth Regiment of Arkansas Mounted Infantry; which was read twice by its title, and referred to the Committee on Pensions.

Mr. FRAZIER introduced the following bills; which were severally read twice by their titles, and, with the accompanying papers, referred to the Committee on Claims:

A bill (S. 5712) for the relief of the Walnut Grove Church, of Gibson County, Tenn.; and

A bill (S. 5713) for the relief of S. M. Gentry.

Mr. WARNER introduced a bill (S. 5714) for the relief of the trustees of the Christian Church of Savannah, Mo.; which was read twice by its title, and, with the accompanying paper, referred to the Committee on Claims.

He also introduced the following bills; which were severally read twice by their titles, and, with the accompanying papers, referred to the Committee on Pensions:

A bill (S. 5715) granting a pension to Andrew J. Harlan;

A bill (S. 5716) granting an increase of pension to Lee W. Putnam;

A bill (S. 5717) granting an increase of pension to James C. Simmons;

A bill (S. 5718) granting an increase of pension to William D. Hoff;

A bill (S. 5719) granting an increase of pension to Thomas W. Shelton;

A bill (S. 5720) granting an increase of pension to Harrison Ferguson;

A bill (S. 5721) granting a pension to Jane Moore;

A bill (S. 5722) granting an increase of pension to James A. Warren;

A bill (S. 5723) granting an increase of pension to W. J. White;

A bill (S. 5724) granting an increase of pension to George C. Saul; and

A bill (S. 5725) granting an increase of pension to Alonzo S. Prather.

Mr. ALGER introduced a joint resolution (S. R. 47) granting condemned cannon for a statue to Governor Stevens T. Mason, of Michigan; which was read twice by its title, and referred to the Committee on Military Affairs.

REGULATION OF RAILROAD RATES.

Mr. HEYBURN. April 9 I introduced an amendment to the bill (H. R. 12987) to amend an act entitled "An act to regulate commerce," approved February 4, 1887, and all acts amendatory thereof, and to enlarge the powers of the Interstate Commerce Commission. I desire to withdraw that amendment and to substitute for it another.

The VICE-PRESIDENT. The Senator from Idaho withdraws an amendment proposed by him April 9, and offers a substitute therefor. The substitute will be printed and lie on the table.

AMENDMENT TO APPROPRIATION BILLS.

Mr. HOPKINS submitted an amendment proposing to appropriate $16,750 for alterations and repairs in the library room and the court room of the circuit court of appeals, seventh circuit, at Chicago, Ill., intended to be proposed by him to the sundry civil appropriation bill; which was ordered to be printed, and, with the accompanying papers, referred to the Committee on Appropriations.

Mr. NEWLANDS submitted an amendment, proposing to appropriate $15,000 to enable the Secretary of Agriculture to conduct experiments to ascertain what crops can be most profitably grown, etc., intended to be proposed by him to the agricultural appropriation bill; which was referred to the Committee on Agriculture and Forestry, and ordered to be printed.

REGULATION OF IMMIGRATION.

Mr. SIMMONS submitted an amendment, intended to be proposed by him to the bill (S. 4403) to amend an act entitled "An act to regulate the immigration of aliens into the United States," approved March 3, 1903; which was ordered to lie on the table and be printed.

PROPOSED INVESTIGATION OF NATIONAL BANKS.

Mr. TILLMAN. I send to the desk a resolution, for which I ask immediate consideration.

The resolution was read, as follows:

Resolved, That the Committee on Finance be directed to inquire whether or not the national banks have made contributions in aid of political committees, and if so, to what extent, and why the facts have not been discovered by the Comptroller of the Currency; and whether or not such contributions have been embezzlements, abstractions, or willful misapplications of the funds of the banks which call for restitutions and criminal prosecutions. Said committee is also directed to inquire whether or not the national banks of Chicago have recently engaged in transactions beyond their lawful powers in connection with the recent failure of a bank in that city, and whether such failure involved illegalities and crimes; and also to inquire whether the national banks in Ohio have been in the habit of paying large sums of money in a secret and illicit manner to the county treasurers of Ohio as a compensation to said treasurers for making deposits of public money with such banks; and to report the facts to the Senate, and the opinion of the committee whether any legal proceedings should be instituted on account of the transactions disclosed, and whether the public interest requires any amendments of the existing national banking laws.

Mr. ALDRICH. Let the resolution go over until to-morrow.

The VICE-PRESIDENT. Under objection, the resolution will lie over.

FIVE CIVILIZED TRIBES.

The VICE-PRESIDENT laid before the Senate the following concurrent resolution of the House of Representatives; which was read:

IN THE HOUSE OF REPRESENTATIVES,
April 16, 1906.

Resolved by the House of Representatives (the Senate concurring), That in the enrollment of the bill H. R. 5976, "An act to provide for the final disposition of the affairs of the Five Civilized Tribes in the Indian Territory, and for other purposes," the Clerk be directed to restore to the bill the part proposed to be stricken out in the amendment of the Senate No. 26 and to insert the following: On page 9, line 3, after the word "retaining," the words "tribal educational officers, subject to dismissal by the Secretary of the Interior," and restore to the bill the part proposed to be stricken out in the amendment of the Senate No. 27, and to insert in said amendment the following: On page 11, line 8, after the word "five," the words "and all such taxes levied and collected after the 31st day of December, 1905, shall be refunded."

After the word "shall," on page 11, line 16, insert "willfully and fraudulently."

After the word "punished," on page 11, line 21, insert "by a fine of not exceeding $5,000 or by imprisonment not exceeding five years, or by both such fine and imprisonment.

In lieu of the matter proposed to be stricken out in the amendment of the Senate No. 41 insert in lieu thereof the following: "The Secretary of the Interior shall take possession of all buildings now or heretofore used for governmental, school, and other tribal purposes, together with the furniture therein and the land appertaining thereto, and appraise and sell the same at such time and under such rules and regulations as he may prescribe, and deposit the proceeds, less expenses incident to the appraisement and sale, in the Treasury of the United States to the credit of the respective tribes: *Provided*,"

Mr. GALLINGER. I think the resolution had better go over. I shall want to examine the bill in connection with the proposed resolution.

The VICE-PRESIDENT. The concurrent resolution will lie upon the table.

JAMES W. JONES.

Mr. HEYBURN obtained the floor.

Mr. GALLINGER. The Senator from Idaho yields to me for the purpose of saying that I objected on Friday last to the

consideration of the bill (H. R. 6982) for the relief of James W. Jones. The bill was read. I withdraw my objection and trust the bill may be passed.

The VICE-PRESIDENT. Is there objection to the present consideration of the bill?

There being no objection, the bill was considered as in Committee of the Whole. It proposes to pay to James W. Jones $513.71. Said James W. Jones, a clerk of class 1 in the office of the Auditor for the Post-Office Department, was, on February 25, 1898, erroneously arrested and summarily dismissed on February 26, 1898.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

REGULATION OF RAILROAD RATES.

Mr. HEYBURN. I ask that the railroad rate bill be laid before the Senate.

The VICE-PRESIDENT. The Senator from Idaho asks that the unfinished business be laid before the Senate.

There being no objection, the Senate, as in Committee of the Whole, resumed the consideration of the bill (H. R. 12987) to amend an act entitled "An act to regulate commerce," approved February 4, 1887, and all acts amendatory thereof, and to enlarge the powers of the Interstate Commerce Commission.

Mr. HEYBURN. Mr. President, on a former occasion I suggested that a phase of the bill under consideration which I deemed very important has not as yet received that attention which it seemed to me should be given to it, and that is the right of the shipper or producer. I desire to premise my remarks by a statement of the principles which I think underlie it.

The right of the producer and shipper to share in the services of the common carrier is property as much as the right of the common carrier to charge for such services. The principle of just and reasonable compensation for such service applies to both alike. The question of just and reasonable regulations and conditions of transportation apply to each alike. If one is under the protection of the provisions of the Constitution of the United States, the other is equally so.

With that statement of what I deem to be incontrovertible truths I should like to review the proposed legislation for the purpose of determining whether or not it meets the requirements of those principles. I propose to-day to waive the question as to constitutional limitation. The principles that I have suggested are as true and as applicable under one interpretation of the powers and limitation of the Government in any of its branches as under the other. It resolves itself down to a question at this time not of what we may do, because it will be admitted by all parties to this controversy that we may do what I propose to do by this amendment, so that the question confronting us is not the limiting of our powers, but the extent to which we will exercise them. There is a vast margin within which Congress may legislate without infringing upon the constitution or the rights of the people.

Mr. President, I would call attention at this period to the fact that I have had a reprint of my amendment, and it is with the clerks and can be had of them. The amendment as I originally offered it covered some things that I do not desire to cover by it, and was not drawn with that fullness as to detail which I now desire. I have therefore had it reprinted, and it may now be had by any Senator who desires to have it before him.

I shall first analyze this amendment and present it in detail to the Senate, and I shall then take up the several amendments that have been offered as to the provision concerning the right of repeal for the purpose of inquiring whether or not they go far enough to accomplish the purpose which I have stated on behalf of the complaining party—that is, the protection of the rights of the producer and shipper.

First, the amendment provides that—

Whenever any party shall have made complaint in the manner herein provided to the Interstate Commerce Commission against any common carrier charging such common carrier with charging or demanding of such complaining party an unjust, unreasonable, discriminatory, preferential, or prejudicial rate, or establishing any unjust or unreasonable charge or practice, for or in connection with the transportation of any proper subject of interstate commerce, which such complaining party has offered or may offer or may desire to offer, for transportation by the said common carrier, and the said Interstate Commerce Commission shall make and enter a decision against the claim made by such complaining party in regard to the matter complained of or against such common carrier, then such complaining party or such common carrier may cause the decision of said Commission to be reviewed by the United States circuit court sitting in the district in which the said cause of complaint has arisen, together with all the proceedings had before such Interstate Commerce Commission, relative to the said complaint, which decisions and proceedings, upon the demand of the complaining party, or such common carrier, shall be duly certified by the Interstate Commerce Commission to the United States circuit court aforesaid for review therein—

Just the proceedings that were had before the Commission may be certified to the United States circuit court upon the application of either the complaining party or the party against whom the complaint was laid—

and said proceedings, so certified, shall constitute the record to be reviewed, considered, and passed upon by the said circuit court, and a certified copy of such decision and record, together with a notice in writing of the intention to cause such proceedings to be reviewed in said circuit court, shall be served upon said Commission and upon the common carrier against whom such complaint shall have been made, or upon such complainant, as the case may be, within thirty days from the making of the order to be reviewed—

That constitutes the subject upon which the review rests. Then—

Such service may be made by any person of lawful age acting for the party seeking the review and may be made upon any member of the Interstate Commerce Commission and upon any officer, agent, or attorney of said common carrier when such common carrier is a corporation, or upon any common carrier a party to such proceedings or the attorney of such common carrier or upon such complainant—

That is the equivalent of a summons or a subpœna that brings the parties before the court—

That the circuit courts of the United States shall have and exercise jurisdiction to review any final decision of the Interstate Commerce Commission establishing rates or conditions regulating interstate commerce under the provisions of this act—

That gives the court the jurisdiction, and we are thus relieved of the question as to whether or not, and to what extent, they have jurisdiction in the absence of any specific provision in the legislative enactment or under the Constitution—

The jurisdiction of said circuit courts to review such proceedings shall attach upon the filing therein of a certified copy of the proceedings had before the Interstate Commerce Commission, together with affidavit of service of said certified record of the proceedings had before the Commission and of the notice of intention to review said decision in said circuit court as in this section provided, which said certified proceedings shall constitute all the record upon which said review may be had—

It will be observed there that this differs from several of the amendments which have been offered in that it limits the record upon which the circuit court shall determine the controverted questions on a review of the proceedings of law and fact had before the Interstate Commerce Commission, and it puts the Interstate Commerce Commission in the position of a master in chancery appointed to hear and report the law and the facts of a case—

And upon the filing of such certified records, with notice of the service of the same as above provided, the jurisdiction of said circuit court shall fully attach for the purpose of determining all questions of law and fact presented by said record—

Limiting the consideration by the circuit court to the record which is made by the Interstate Commerce Commission—

and the court is empowered and authorized upon such review, in the event that it shall find upon the record that the rate complained of is either unjust, unreasonable, discriminatory, preferential, or prejudicial, or that the charge or practice complained of is unjust or unreasonable, to fix and determine such a rate—

That is, the circuit court shall fix the rate or practice on review of the Commission's decision—

or practice as in its judgment shall be just, reasonable, and not discriminatory, preferential, or prejudicial—

That is what the court said that they did not have the power to do under the existing law. This provision gives them the power to do what they said they would do had they the power—

and shall by such order—

That is, the court shall—

and shall by such order and the execution thereof prevent any unjust or unreasonable practice in connection with such transportation, and shall enter its judgment therein according to the law and the premises—

Having before it the record made before the Commission and nothing else—no trial de novo; nothing added to that record except the papers necessary to bring the case up for review—they may declare upon that record whether or not the rate fixed is just and reasonable, and so forth; and, if it is not, they may declare a just and reasonable rate. We can either give them that power or we might as well dismiss this proposed legislation from our minds. If we can not give to the court that power upon review, then all of this argument, all of the discussion of this question, has been to no purpose. The only alternative would be for the courts to send it back and back again to the Commission for further action on their part. We must give the court that reviews the action of the Interstate Commerce Commission this power or the legislation will accomplish no purpose.

Mr. NELSON. Mr. President, may I ask the Senator from Idaho a question?

The VICE-PRESIDENT. Does the Senator from Idaho yield to the Senator from Minnesota?

Mr. HEYBURN. Certainly.

Mr. NELSON. Can the United States circuit court review such a case as the Senator refers to, except by an original action commenced in that court?

Mr. HEYBURN. The United States circuit court may take jurisdiction in such manner as we prescribe in this amendment, and it may apply its judicial power to the determination of any matter thus brought before it or within its jurisdiction. We have a number of precedents for this class of review, one of which is afforded in the text of the present interstate-commerce law—that is to say, to provide for the review of a record made by an executive body by legislative action of Congress and say that jurisdiction shall attach upon the filing of the record of the legislative body. It is not an appeal. There could be no appeal from a legislative or executive body to a court. But it authorizes the jurisdiction of the United States courts to take hold of a controversy which has been prepared for final determination before an executive board.

Mr. FULTON. Mr. President——

The VICE-PRESIDENT. Does the Senator from Idaho yield to the Senator from Oregon?

Mr. HEYBURN. Certainly.

Mr. FULTON. If I understand this amendment which the Senator from Idaho has proposed to the bill, he proposes to authorize the courts on review, at the instance of a shipper dissatisfied with the orders of the Commission, to ascertain and determine what is a reasonable rate or order to be made in the matter in question. Is that correct?

Mr. HEYBURN. Yes. I propose to authorize them to do so in the process of reviewing the action taken by the administrative board.

Mr. FULTON. It seems to me—I have only looked over the amendment hurriedly—that the inquiry for that purpose is confined to a review on an appeal or application of the shipper, is it not?

Mr. HEYBURN. No; it is not. Has the Senator a copy of the reprint of the bill?

Mr. FULTON. Yes.

Mr. HEYBURN. The Senator will find that the parties have exactly equal rights in regard to every step of the proceedings in connection with the determination of what is just and fair compensation or any other controverted question.

Mr. FULTON. Do I understand the Senator correctly that on a review initiated by either party, the carrier or the shipper, he proposes to require the court, if it hears the appeal from the Commission, to ascertain and determine and pronounce what is a reasonable rate or regulation in that case?

Mr. HEYBURN. I do. I propose to allow the courts to protect both parties under the provisions of the fifth amendment of the Constitution of the United States. But I do not intend to enter into any further analysis of what may be done under that fifth amendment than may be necessary to apply the provisions in my amendment to the principle of law involved in it.

Mr. FULTON. I only asked the Senator the question in order that I might be certain that my understanding of his amendment is correct. I wish to say that I am heartily in favor of that feature of the amendment. I myself believe that when an appeal is taken from an order of the board, and the court annuls the order made by the Commission either fixing the rate or establishing a practice, the court should be required to go further and say what is a reasonable rate or a proper practice.

Mr. HEYBURN. And my amendment so provides. Then, as to the manner of its execution——

Mr. BACON. Will the Senator allow me to ask him a question?

The VICE-PRESIDENT. Does the Senator from Idaho yield to the Senator from Georgia?

Mr. HEYBURN. Certainly.

Mr. BACON. If I understand the suggestion of the Senator from Oregon [Mr. FULTON], it is to the effect that the amendment of the Senator from Idaho [Mr. HEYBURN] proposes that the court in reviewing the action of the Commission, if it shall find that action to have been unsatisfactory or invalid for any of the reasons mentioned, shall not only set that aside, but that it shall go further and fix the rate. Is that correct?

Mr. HEYBURN. That is correct.

Mr. BACON. Now, I want to ask the Senator a question somewhat of a constitutional character, not for the purpose of controversy, but for the purpose of getting the Senator's view. Of course the Senator will recognize the fact that when the Commission fixes the rate it will be doing so in the exercise of its delegated power; in other words, the original power to make a rate is in Congress, and Congress delegates that to the Commission. I presume the Senator agrees with me to that extent. Predicated upon that, I desire to ask the Senator this question: Suppose, instead of delegating the power to fix the rate, Congress should itself fix the rate; could Congress go further and say that the court should have the right to review that rate and say whether or not Congress had fixed it properly?

Mr. HEYBURN. That depends, Mr. President, on whether or not the provision of the act of Congress includes a rule by which the rate can be fixed by a commission.

Mr. BACON. The Senator does not understand me.

Mr. HEYBURN. We are not proposing, if I may complete my suggestion, to give the Interstate Commerce Commission a free hand in the fixing of rates. We propose that they shall fix such rates as shall be just and reasonable; and it is recognized doctrine that the meaning of those terms can be determined only by the court. So that we can not possibly divorce the proceeding under the "just and reasonable" clause from the power which we give the Interstate Commerce Commission to fix the rate.

Mr. BACON. The Senator, I fear, did not catch my exact meaning, and, therefore, with his permission, I will repeat my question in a somewhat different form. In the absence of delegation, suppose that the Congress should assume, what we all recognize to be within its power, to itself fix a rate, could we constitutionally attach to and as a part of the act fixing the rate a provision that the court should have the power to review the action of Congress in fixing the rate; and if it is found to be not valid for any reason specified in this amendment, that it should set that rate aside and itself fix the rate? Could we delegate to the court the power to review that action of Congress?

Mr. HEYBURN. I do not regard it as necessary to consider the question of whether we could delegate the power to the court or not, because the principle of delegation is not involved. If Congress should itself fix the rate, and that action by Congress should be in violation of property rights protected by the organic law of the land, the court could say that Congress had fixed a rate that amounted to a violation of individual or property rights. We can give to the Supreme Court or to any other court the power, if we see fit, to suggest to us a rate that would not do so by judicially interpreting the meaning of "just and reasonable." Otherwise what did the Supreme Court mean when it said that "While this question is before us Congress might have given the power, but Congress has not given it. All we can do, therefore, is to say that the rate is not itself illegal; we can reverse the action of the Interstate Commerce Commission; and there our power stops." What did the Supreme Court mean by that?

Mr. BACON. The Senator need not argue that proposition, because so far as it recognizes the power of courts to set aside legislation violating property rights nobody would differ with him about it.

Mr. HEYBURN. It seems to me——

Mr. BACON. If the Senator will permit me to interrupt him—I do not wish to do so unless it be agreeable to him——

Mr. HEYBURN. I do not object to being interrupted.

Mr. BACON. The Senator interjects a statement right in the midst of my statement; and if he will pardon me, in order that I may set myself right——

Mr. FULTON. Will the Senator from Georgia allow me a moment?

Mr. BACON. I hope the Senator will permit me to make my suggestion.

Mr. FULTON. It is right in connection with the question he is going to ask, if I understand the Senator.

Mr. BACON. I am asking a question, and I hope the Senator will permit me to finish it.

Mr. FULTON. Certainly.

Mr. BACON. Nobody will for a moment take issue with the Senator in what he says, that, if Congress should pass an act which was unconstitutional, the court would so determine; but what I desire to ask the Senator is this: If Congress should fix a rate—leaving the Interstate Commerce Commission out of the question—if Congress should fix a rate, could we say in the act fixing that rate that, if there was anything in it which the parties found to be "unjust, unreasonable, discriminatory, preferential, or prejudicial," the court should have the power to revise that and change it and fix a rate which would not be open to those objections?

Mr. HEYBURN. Yes; unqualifiedly so. We have done that in many instances.

Mr. BACON. I am asking about the Senator's amendment.

Mr. HEYBURN. I will answer the suggestion of the Senator.

Mr. BACON. I am quoting the language of the Senator's amendment.

Mr. HEYBURN. I have been quoting the language of the amendment. We have done that——

Mr. FULTON. Mr. President——

Mr. HEYBURN. The Senator will pardon me for just a moment.

Mr. FULTON. Will the Senator from Georgia answer a question?

Mr. HEYBURN. I should like to answer the question which the Senator propounded to me.

Mr. FULTON. It is right in connection with that.

Mr. HEYBURN. Then, I will answer both together.

Mr. FULTON. That is what I want.

Mr. HEYBURN. All right.

Mr. FULTON. What I want to ask the Senator from Georgia is this: If there is any difference in the exercise of the power on the part of Congress, whether it fixes the rate itself or commits it to a commission under proper instructions; in other words, when it directs the Commission to fix the rate, is not that the action of Congress, and if not, is it not a void act?

Mr. HEYBURN. The answer to both of those questions is just this: Congress has from the beginning been doing just what it is proposed to do by this amendment. The land laws of the United States lay down a general principle. They leave the execution and administration of the law to a Department of the Government, and provide that it shall be done under such rules and regulations as, in the judgment of the Department or the officer of the Department, will accomplish the ultimate purpose that Congress had in enacting the law. That is one instance. In the case of the location of a mining claim, the law says that the claim shall be so distinctly marked upon the ground that its boundaries can be readily traced; and the courts are left to say whether or not the parties have complied with it.

Here we say to a department of the Government, corresponding in many ways to the Land Department: "Within certain lines and within certain general limitations you may determine these questions of fact." They are questions of fact that the department is to determine—whether or not certain conditions stated constitute a violation of what is right or reasonable or just, just as the other department is delegated with authority to say whether or not certain conditions upon the ground constitute the carving out of an estate that may be of vast value or of none; for we propose that Congress shall by this legislation delegate to the Interstate Commerce Commission the power to take up the facts that are presented in the petition of the complaining party, sift them, apply the law to them, and determine whether or not, in the judgment of the Commission, the acts complained of are in accord with or in violation of the law, and render its decision, which is equivalent to a judgment. That is what we propose they shall do. They say that the lawful rate or the reasonable rate or the just rate is $2 a ton, and that is based upon the facts before them. They have no jurisdiction to determine until after the statement of the facts is before them. Those facts being before the Commission, upon such facts they draw a deduction as to the right and the wrong—that is the right of the party. Can we authorize the court to review it? The courts have been reviewing that class of controversy every day since this Government was founded, and it is one of the most constant sources of the courts' jurisdiction.

Mr. President, I am not troubled about the power of Congress to authorize the United States circuit court to review the law or the facts, or the facts and the law, because the law flows from the facts. As proposed by my amendment, in these cases a complaining party, dissatisfied with the rate or with the conditions surrounding him, states the facts and not the law or the conclusions to be drawn from them; he states the facts to the Interstate Commerce Commission, and that Commission, taking those facts and applying the law as it understands it, says, "You are right," or thus and so. They are authorized through the machinery of the court to enforce their decisions. Can there be any doubt about the power to do that?

Let us see what the amendment which I propose provides in regard to the manner of the exercise of that power. I last referred to the provision at the bottom of page 3 of the amendment, that the court should review the question of whether or not these rates were discriminatory, etc.—

And shall by such order and the execution thereof—

That is, the United States circuit court shall—

prevent any unjust or unreasonable practice in connection with such transportation, and shall enter its judgment therein according to the law and the premises.

Mr. McCUMBER. May I interrupt the Senator to ask a question?

The VICE-PRESIDENT. Does the Senator from Idaho yield to the Senator from North Dakota?

Mr. HEYBURN. Certainly.

Mr. McCUMBER. I desire to ask the Senator what does he mean by the words "such transportation?" Does he mean the particular transportation that is involved in the particular case that is complained of?

Mr. HEYBURN. Yes.

Mr. McCUMBER. Let me ask the Senator—for I am in sympathy with the appeal by the shipper as well as by the common carrier from every decision—whether or not the Senator contends that the court can be compelled to determine, not only whether this rate is unreasonable and unjust, but also can be compelled to determine what is an unjust and an unreasonable rate—that is, that Congress has the power to say to the court, "You shall not only determine the specific question whether it is unjust or unreasonable, but shall lay down a rule of what shall constitute an unreasonable and an unjust rate?"

Mr. HEYBURN. Is that the Senator's point?

Mr. McCUMBER. Yes.

Mr. HEYBURN. Congress could not, if it would, provide that a judgment might be rendered against any party that was not in court; and I have taken especial care in this amendment to limit the application of those words on the first page of the amendment—I call the Senator's attention to it—"when such complaining party has offered, or may offer, or may desire to offer for transportation by said common carrier any proper subject of interstate commerce." That limitation runs all through the amendment. I have not thought for a moment that a court could lay down a rule that would be binding upon a party not before it; but I do believe, as a matter of practice, when the court makes a rule people will acquiesce in it, because they would know that it would be entirely futile and a source of expense to them to take up a case resting upon a principle that had already been determined by the court to again hear it. They could only possibly be induced to do it for the purpose of harassing some one, and they would get very tired of that by the time the court applied the rule that governs frivolous appeals.

Mr. McCUMBER. The real question that I wanted information upon was whether the Senator's contention was that in a case where the rate, we will say, is 5 cents a hundred for shipment between points, and the court may determine that that 5 cents per hundred is unreasonable, has Congress any power to compel the court to say that 3 or 3½ cents would be reasonable, and compel it to render a decision of that kind and incorporate it as a part of its decision, and then to enforce a rule or order in that particular case that the common carrier should only charge 3 or 3½ cents if it should find that to be the limit of a reasonable charge?

Mr. HEYBURN. I should say that I do not exactly agree with the Senator as to the use of the term we may "compel" a court to do a thing. A court might stubbornly refuse to do anything in any case. The court will not probably refuse in these cases to do what Congress has legislated they may do. It is not to be presumed that they would refuse to do it if we provide as a part of this scheme of legislation that it shall be the duty of the court—not that the court may do it, but that it shall be the duty of the court—upon the record before it to determine these things. It only remains a question as to whether or not we have the power to do it; and that I have already passed. I do not think there is any objection to the effect that we have no power to do it. As I say, we have been doing it, and the statutes are full of instances in which we give the court just such duties to perform.

But, Mr. President, my amendment continues, and here comes in the manner of exercising the power—

and the hearing and consideration of such cases by the said circuit court shall be without any avoidable delay and such cases shall have priority in hearing and determination over all other cases except criminal cases.

That is the usual, useful, and necessary provision in this class of cases, because it relieves the court of embarrassment. When these cases are on the calendar the court may simply say, "Under the statute by which we take jurisdiction in this case it is entitled to a preference over all other controversies except criminal cases."

That the said circuit court shall have power to execute its orders and decrees and to make, issue, and enforce all necessary interlocutory orders and writs for the preservation of the rights of the parties litigant pending the hearing and determination of the review of the proceedings of the Interstate Commerce Commission.

Mark you, it "shall have power to execute its orders and decrees and to make, issue, and enforce" them. We do not say that they shall issue any writ; we do not say that they shall not. We say we commit to the chancellor of the court, the man whose judgment is the exercise of a conscience not bounded by the rules or precepts or limitations surrounding statutory rights and remedies; but a court, whether it be the same man or another, who acts only on conscience under his oath; and we know that in the record of the jurisprudence of this country, of our mother country, and of the civilization of the world it has been very seldom indeed that in the last analysis we have been justified in criticising the acts of the great chancellors in whom we have rested our faith. So this leaves it to them. I do not

believe that any conscientious chancellor will stay a proceeding except upon good cause shown. Now, mark you:

Provided, That no order or writ shall be made suspending the operation of the order under review, except upon the party asking for such order giving an indemnity bond in such sum as the court or judge thereof may direct, or depositing the amount of such indemnity with the court, subject to its order.

That is the general provision. The courts do not grant injunctions, except under the rarest circumstances, without requiring indemnity that would be adequate to meet any possible loss. Then:

And the liability under such indemnity bond or deposit shall cover the costs of the hearing before the Interstate Commerce Commission and the review thereof by the circuit or Supreme Court, together with the amount of money involved in the controversy to be reviewed—

Making it absolute—

and a reasonable attorney fee to be fixed by the court.

I did not have that clause in this amendment when I first drew it. I had some doubt about the justice of including the attorney's fee in this class of cases; but, upon reviewing the bill before us and the amendments, I found that it seemed to be generally accepted that we should include an attorney's fee. I have no particular objection to it, because I think the court would always keep it within reasonable bounds.

And no stay of the order of the Interstate Commerce Commission shall be allowed under any order or writ made or issued by the circuit court for a period of more than sixty days, at the expiration of which time, should the parties seeking to have the proceedings of the Interstate Commerce Commission reviewed desire a further stay, they must show to the said court or judge thereof that they have been and are exercising due diligence in the preparation and prosecution of the action, and that injustice would result from the refusal to grant such extension of time.

That is for protection against delay. If they make a showing in the first place upon which the chancellor will stay the proceeding, within sixty days, or at the end of sixty days, that stay falls, unless they come before the court and show—as they ought to be compelled to do, especially in mining litigation—they come before the court and show a reasonable excuse why their case has not come to a final consideration. Any chancellor, inspired with a sense of equity and justice, would say upon a proper showing, "Your stay will be extended for thirty days or sixty days," as the case may be, leaving it always within the power of the chancellor, where there is an evident purpose of delay, to compel the parties to come to a speedy determination.

I am endeavoring by this amendment to provide a remedy and such a method for the application and enforcement of the remedy as will be in harmony with the recognized system of chancery practice in the United States courts—an application of the present rules of procedure to this case after the court has jurisdiction of it.

Mr. President, I did not intend and I do not now intend to read all of this amendment, but I desire to go over it in this way in order to impress upon the minds of the Senate its provisions and the necessity therefor that occurred to my mind for presenting them. I did not draw this amendment simply to draw an amendment to this bill, but to give such aid as is due from every member of this body to the end that we may frame a law that will be in accord with our powers and our duties.

The amendment then provides—

That the circuit court having jurisdiction of the cause shall at all times be open for any purpose or proceeding.

Then I make the usual provision that it shall be open without regard to term time. Such a provision is necessary because the time within which the case may be reviewed is so short that if it were not that the courts were deemed always open, it would be impossible to comply with the ordinary rules of practice of the court.

That the decisions of the United States circuit courts upon a review of any of the proceedings of the Interstate Commerce Commission as aforesaid, or of any matter pertaining thereto, shall be final, except that whenever it shall be made to appear by verified petition to the Supreme Court of the United States or to a justice thereof, accompanied by a certified copy of the record upon which the final judgment of the circuit court is based, that any of the rights of the contesting parties under the Constitution of the United States have been violated by a denial of such rights of the parties to such controversy by the order, judgment, or decree under review, then and in that case the Supreme Court or a justice thereof may, by appropriate order or writ, cause the record of the proceedings of the said circuit court to be certified to the Supreme Court of the United States for review thereby—

Taking them up by the ordinary process of certiorari or a writ the equivalent of it, and taking up to that court only the question involving the rights of the parties under the Constitution to their property and their personal enjoyment thereof.

In the circuit court it is provided by this amendment that the court may review both law and fact and determine the question as though it came before it upon the report of a master in chancery. But in reviewing the action of the circuit court it is not necessary that these cases should be thrown into the Supreme Court of the United States at the whim of either party for a determination of the facts, or for any further purpose than that the fundamental rights of the parties to the controversy may be considered in their relation to the constitutional rights of property and person.

Now, Mr. President, the amendment goes on to provide that—

The Supreme Court shall have the power to make such orders and issue such writs as in its judgment are appropriate and necessary to protect the rights of the parties litigant pending the hearing and determination of the cause to the same extent as is herein provided in this behalf during the pendency of the review of such cause in the circuit court.

In other words, it gives the United States Supreme Court the power to continue in force protective orders at its discretion. It obviates the consideration of the question whether they have that right regardless of the statute or can have it only by statute. I can accept every word that was said by the Senator from Texas [Mr. BAILEY] as to their not having it except we give it to them. I can with good conscience stand here and urge upon the Senate our duty to give it to them. He admits we have the power to give them this right of review, and denies to them the power unless we give it to them; and I propose that we give them the power and leave no doubt about that question, but give it to them with the limitation as to the exercise of the jurisdiction.

The amendment contains further provisions with respect to the proceedings for the review of the judgment of the circuit court by the Supreme Court. It has now become a decree, or a judgment in the circuit court. It may be a judgment for money, and that the circuit court will give the parties the right of trial by jury. The existing law is sufficient to regulate that matter. The amendment deals with the appeal from the circuit court as with any other appeal. It denominates the review of the action of the board as a "review." We may create new writs in Congress. Congress, while recognizing the writs known at the common law and in chancery practice, may provide for the institution of new methods of review. We did it in the act of 1891, creating the circuit courts of appeals, where we provided an entirely new and distinctive method of transferring a cause from one court to another for the purpose of review, and it is within our power, beyond a question, to authorize the transfer of the controversy, after a decision, from the Interstate Commerce Commission to the circuit court. But after that, in proceeding from one court to another, there is no embarrassment. It is by appeal with all the attributes of an established method.

This amendment further provides that—

The proceedings for the review of the judgment of the circuit court by the Supreme Court, whether by appeal or otherwise.

It might be by certiorari; a question of jurisdiction might be raised, and it might be by writ of error, where the judgment of the circuit court was for damages; and, as I have already said, the circuit court might award a jury trial where the question came within the common-law jurisdiction of the circuit court.

The amendment provides—

That the proceedings for the review of the judgment of the circuit court by the Supreme Court, whether by appeal or otherwise, shall be commenced therein by filing a certified transcript of the record, proceedings, and judgment or decree had in the circuit court in said cause with the clerk of the Supreme Court of the United States—

That is the usual way. It would not have been necessary to provide herein for it, except that it fills out and harmonizes a method of procedure that was intended to be complete in this amendment—

within thirty days—

That is time enough. The record is made up, and in this age of duplicating records by typewriting and other processes it is not necessary to provide for those long intervals between the trial of a case and the making up of the record that it formerly was. So I have thought here that thirty days was a sufficient lapse of time between the decision of the Commission and the presenting of the record to the Supreme Court—

within thirty days after the entry of such judgment by the said circuit court, and that thereafter the consideration by the Supreme Court of the United States of such causes shall have priority in hearing and determination over all other causes, except criminal causes, but the pendency of such review or appeal in the Supreme Court of the United States shall not vacate or suspend the order appealed from, except in the manner or under the conditions as hereinbefore provided in the case of the proceedings in the circuit court to review the order of the Interstate Commerce Commission.

That is to say, sixty days is the limit of supersedeas except upon a showing of necessity that would appeal to the court for further time.

That any order made by the Interstate Commerce Commission fixing or regulating interstate traffic rates, or any matters pertaining thereto

under the authority vested in said Commission by law, shall be in force from time of the making of such order by the said Commission, and shall only be suspended in the manner hereinbefore provided.

A judgment is in force from the time of docketing it. Why should not these orders be in force? Who is benefited by this delay of thirty days, postponing the effect of an order thirty days, when you give the direct and prompt right of review, and they can take advantage of this right of review should they see fit to do so within twenty-four hours after the decision? I have known reports of masters in chancery to be before the court on the day they were made. Why do we need a lapse of thirty days between the decision of the Interstate Commerce Commission and the time when the order shall go into effect?

That any order made * * * shall be in force from time of the making of such order by the said Commission, and shall only be suspended in the manner hereinbefore provided.

That is all there is of this amendment, and I submit to the Senate that it constitutes a complete provision and method of procedure for the review of the action of the Interstate Commerce Commission which is in accord with the present practice of United States courts, and violates no rule of those courts and no statute governing the right of review of any court.

Mr. President, so much for that amendment which I commend to the Senate for its consideration. It is in behalf of the people at whose original demand the interstate-commerce bill was passed. The railroads did not demand the passage of an interstate-commerce bill in 1887 or at any time. It was the producers and the shippers of the country who demanded it. One might think from much that we read and some that we hear that this is a question of seeing how much we may encroach upon the rights of the common carrier as between the Commission and the carrier. The Commission is merely a board of arbitration. We could not, should we deem it desirable to do so, invest it with any greater powers than those belonging to a board of arbitration. It is merely, and should be, a convenience for the purpose of enabling the complainant to reach into a court.

Of course if both parties were satisfied with the decision of the arbitrator, there would be no occasion for going into court, but generally they are not. More than half of the cases decided in the last five years by the Interstate Commerce Commission were decided against the complainants. More than half of the formal complaints that were submitted to the Interstate Commerce Commission, upon which testimony was taken and hearings had, were decided against the producer, who sometimes is the shipper and sometimes is not the shipper. But for convenience of expression I speak of him as the shipper. Was he never right? Can it be possible that in so large a proportion of the controversies submitted by complaint to that body the shipper was never right? Does the record establish the infallibility of the judgment of the Interstate Commerce Commission to the extent that we can believe that those complaints were turned down because they had no merit? Out of twenty-seven cases that have been appealed from the Commission the Commission has been turned down twenty times. It was right seven times out of twenty-seven.

Now I say that without any disrespect personally to the Board. I say it because it is a fact which ought to be taken into consideration in determining the weight and the conclusiveness which we will attach to the decisions of the Commission in weighing the rights of those who make complaints before it. It is not a question of protecting either the Commission or the common carrier alone. They should both be protected within the limits of fairness and reason. But the primary object of the interstate-commerce legislation was to protect the very party who was left out of the interstate-commerce bill. He has been treated with suspicion from the very beginning. Section 9 of the existing law contains the provision that if the complainant elects to submit his case to the Interstate Commerce Commission, he does it at the jeopardy of waiving his rights under the common law to recover damages to the extent of his losses. Was ever such a provision incorporated in a bill that claimed to have been enacted for the protection of the shipper? Pass a law, ostensibly granting him some right to protection, and then say, "You can have this, but only in case you are willing to throw yourself with perfect faith and trust into the arms of the Commission for the ultimate decision of your rights," and then waive a right that was more valuable to him before the enactment of any law than any right that the law pretends to give him—the right to sue in the courts of the State or of the United States to recover back any sums that had been unjustly collected from him by the transportation company.

Common carriers have been recognized since the beginning of written and unwritten history as necessary to every community. I have wondered sometimes, as I sat here and listened to the discussion of this question, whether Senators realized that in parts of our country for many months—I might say for periods covering years—our common carriers were dog trains and pack animals. The first year I was in the Coeur d'Alene country much of the produce—and it was not trifling in amount—came in on dog trains; in the winter time on sledges pulled by dogs; in the summer time on dogs' backs on little pack saddles. They were carriers; that was interstate commerce. They came from Trout Creek, Belknap, and Thompsons Falls, in Montana, and other points over the line into Idaho, and they carried hundreds and hundreds of tons of the stuff we needed in that country. Was not that interstate commerce—mule trains, dog trains, pack trains, that carried probably as much freight across the State line as is in some sections carried upon the railroad trains? The whole settlement of California and Oregon and Nevada and Washington and Idaho was based upon interstate commerce through the medium of wagon and pack trains.

Mr. President, the income per mile of the railroads from passenger traffic is almost twice what it is from freight traffic. The income of the railroads of the United States from passenger traffic will approximate $5,500 per car per mile, and from freight about $3,000. We are treating this question as though it was one entirely pertaining to the hauling of coal, iron, and commodities of that kind. It is a broader question.

Mr. President, I wish to call attention to an amendment that is germane to the one I have just been discussing, which I have offered to this bill. After line 19, on page 3, I propose to strike out the words "on substantially similar circumstances and conditions."

The discussion of this amendment is one upon which I desire to have the attention of the Senate, and I realize that in the hour in which I am speaking the Members of the Senate are necessarily not all in the Chamber. I would prefer to defer the discussion of this particular legal question until I can have the attention of the Senate. I do not desire to inconvenience Senators who are at their luncheon or absent because of necessity. I make the suggestion at this time——

Mr. TILLMAN. Mr. President——

The VICE-PRESIDENT. Does the Senator from Idaho yield to the Senator from South Carolina?

Mr. TILLMAN. I suggest the absence of a quorum.

Mr. HEYBURN. I did not desire to have that suggested.

Mr. TILLMAN. The Senator from Idaho is talking on an important matter in which the Senators are interested and upon which they have to vote, and he has a right to have them here to listen to him.

The VICE-PRESIDENT. The Senator from South Carolina suggests the absence of a quorum. The Secretary will call the roll.

The Secretary called the roll, and the following Senators answered to their names:

Aldrich	Clapp	Hopkins	Perkins
Allee	Clark, Wyo.	Kean	Piles
Ankeny	Clay	Kittredge	Rayner
Bacon	Culberson	McCreary	Scott
Berry	Cullom	McCumber	Spooner
Beveridge	Daniel	Martin	Sutherland
Blackburn	Dillingham	Money	Tillman
Brandegee	Dubois	Morgan	Warner
Bulkeley	Foraker	Nelson	Wetmore
Burnham	Frye	Newlands	
Burrows	Gallinger	Nixon	
Carter	Heyburn	Overman	

Mr. MORGAN. My colleague [Mr. PETTUS] is detained at home by sickness in his family, and is not able to attend the Senate.

The VICE-PRESIDENT. Forty-five Senators have answered to their names. A quorum is present.

Mr. HEYBURN. Mr. President, I desire to discuss for a few minutes an amendment which I offered on the 9th of April, providing a method for obtaining information indispensable to the determination of what constitutes just compensation or a fair and reasonable rate. The bill as introduced and as reported by the Senator from South Carolina contains a provision in general terms under which such information may be obtained. I desire to call the Senate's attention to the amendment which I have offered, to be inserted on page 3, after section 1, which provides:

That for the purpose of enabling the Interstate Commerce Commission to determine the basis upon which to ascertain what rates shall be just and reasonable the said commission shall require any common carrier against whom complaint shall be made under the provisions of this act to file with said Commission, at its office in the city of Washington, in the District of Columbia, a copy of its articles of incorporation, together with any amendments or supplemental articles adopted by it, duly certified by the secretary of state or officer corresponding thereto of the State, Territory, district, insular possession, or foreign country wherein such corporation shall have been incorporated, and shall also file in like manner a copy of any and all by-laws of such corporation duly certified by the president or vice-president thereof, and under the seal thereof, attested by the secretary of the corporation.

That at the time of filing the articles of incorporation and by-laws

of any corporation, as hereinbefore provided, and on or before June 30 in every succeeding year, the corporation so filing the same shall file with said Commission a statement verified by the oath of its president or vice-president, fully setting forth as follows:

First. The name of the corporation and the place and date of incorporation.

Second. The names, residence, and business or occupation of the officers of the corporation.

Third. The business in which the corporation is actually engaged, and in what States, Territories, districts, or insular possessions it is engaged in transacting such business.

Fourth. The cash value of the assets of the corporation and the nature and character of such assets.

Fifth. The amount of indebtedness of the corporation, and if such indebtedness is secured, in what manner.

Sixth. A statement in detail of all bonds and mortgages issued by and outstanding against said corporation, showing when said bonds were issued and when the same become due and the consideration received by the corporation for said bonds in property or money, and if in property, the nature and cash value of such property and where situated; and in case of mortgages, showing the date of such mortgages, the date of their maturity, the property covered thereby, and the cash value thereof.

Seventh. The amount of shares of stock or bonds owned or controlled by said corporation in any other corporation, and the proportion of the entire capital stock which such holding represents, both in the reporting corporation and the corporation whose shares it holds.

Eighth. The amount of assets and liabilities of any corporation in which such reporting corporation holds stock or bonds, giving the character of such assets and liabilities and of what such assets and liabilities consist.

Ninth. The number of shares of the capital stock of the corporation which have been actually issued, and the amount and value of the consideration actually received into the treasury of the corporation for such shares; where the payment was made in money, then the amount in money per share; where such payment was made in property, a description of such property as to location, character, and the cash value thereof.

Tenth. That no other stock of any character has been issued or is outstanding than that so reported.

Eleventh. That the corporation has issued no other bonds, mortgages, or other evidence of indebtedness than those stated in said report to have been issued.

Twelfth. The amount expended for extensions, construction, and improvements each year and where expended and the character thereof.

Thirteenth. The earning receipts from each branch of the business and from all sources, the operating and other expenses, balances of profit and loss, and a complete exhibit of the financial operations of the carrier each year, including an annual balance sheet. Such reports shall also contain information in relation to rates or regulations concerning freights or fares, or agreements or arrangements or contracts affecting the same, as the Commission may require—

That is in the bill as reported—

Such detailed report shall contain all the required statistics for a period of twelve months ending on the 30th day of June of each year, and shall be made under oath and filed with the Commission, at its office in Washington, on or before the 30th day of September, then next following, unless additional time may be granted in any case by the Commission; and if any carrier, person, or corporation subject to the provisions of this act shall fail to make and file such annual report within the time above specified or within the time extended by the Commission for making and filing the same, or shall fail to make specific answer to any question authorized by the provisions of this section within thirty days from the time it is lawfully required so to do, such parties shall forfeit to the United States the sum of $100 for each and every day it shall be in default in respect thereto.

Then it provides for monthly reports as in the existing bill. I will say that the additional features provided for by this amendment require the officers to state, under oath, as to the exact amount of property and indebtedness, and the earnings thereon. If we are going to invest the Interstate Commerce Commission with the power and the duty of determining what shall constitute fair and reasonable rates, we have got to know upon what that calculation is to be based. We must know the investment of the railroad company; we must know the cost of operating it; we must know its indebtedness; we must know whether or not its stock represented the actual value of the road, and what relation the bonded indebtedness bears to the value of the road. We ought to know what it has returned for taxation, but the habit has so grown up almost universally in the United States of taxing property without regard to its value that that perhaps would afford no criterion.

Mr. NEWLANDS. Mr. President——

The VICE-PRESIDENT. Does the Senator from Idaho yield to the Senator from Nevada?

Mr. HEYBURN. Certainly.

Mr. NEWLANDS. I wish to ask the Senator whether he has examined any of the reports made by the railroads under existing law? My impression is that the reports now made by the railroads of the country engaged in interstate commerce give all the data called for by this amendment.

Mr. HEYBURN. I will say to the Senator that I have spent some days and a part of some nights in examining those reports for the purpose of informing my own mind as to whether or not there was occasion or necessity for this amendment. I did so both before and after its introduction. I find that those reports come up to a certain point and stop right there, and the point at which they stop is the point at which their usefulness would begin. I would refer to the reports as they are in the volume containing the report of the Interstate Commerce Commission for 1904, which is a very large volume, and they cover about three-fourths of the book. There is not enough valuable information upon which the Commission could act to cover ten pages, and I will undertake to say that the Commission were of that opinion, and that in determining the questions which they had before them they had slight and infrequent cause to refer to that report.

Mr. NEWLANDS. Mr. President——

The VICE-PRESIDENT. Does the Senator from Idaho yield further to the Senator from Nevada?

Mr. HEYBURN. Certainly.

Mr. NEWLANDS. I ask the question for information; but my recollection is that the reports themselves made by the common carriers of the country are much fuller than the statistics given in the volume published by the Commission.

I will ask the Senator whether he has examined any of the reports of the leading companies? I have done so recently, and my recollection is, though I may be mistaken, that these reports cover fully all the data required here. I am entirely in sympathy with the purpose of the Senator in securing a basis for the action of the Commission, but it strikes me that so far as this statistical information is concerned, it is already within the reach of the Commission through these reports, and that what we require is in addition to that a physical valuation of all the property of the common carriers by experts under the direction of the Interstate Commerce Commission. Such a valuation having been ascertained within a period of one or two years, it would be very easy thereafter to add every year the additions made to the plant or the property of the various carriers, and to deduct therefrom such amounts as should properly be deducted for depreciation.

Mr. HEYBURN. Mr. President, one of the most marked instances in which the present manner of reporting is insufficient is in this, that it does not undertake to state the interest which one transportation company has in another. There is no more useful information to be furnished to the Interstate Commerce Commission.

Mr. NEWLANDS. Right here I will state that in the reports which I have examined I have found statistics of that kind. For instance, in the original report of the Baltimore and Ohio or the Pennsylvania Railroad or the New York Central, which I have examined, I find detailed information given by those reports regarding the holdings of those corporations in other companies. For instance, it appears in the report of the Baltimore and Ohio road that that company owns about thirty million dollars' worth of securities in the Reading, which is engaged not only in transportation, but in working coal mines. Then, with reference to the New York Central, I recall the fact that the report of that company gives its stocks and bonds in a number of companies, not only transportation companies, but producing companies. I also found in the reports of some of the subsidiary companies of the New York Central system, such as the Michigan Southern Railroad, a statement of the corporate holdings of that road both in transportation companies and in producing companies.

So I ask the Senator whether he has rested simply upon the statistics which are given in this published report or whether he has gone back to the original sources of information, the reports themselves.

Mr. HEYBURN. I ask the Senator if he refers to the documents that are on file in the pigeonholes of the Interstate Commerce Commission?

Mr. NEWLANDS. Yes.

Mr. HEYBURN. I have not gone to those documents, because under the law the Interstate Commerce Commission is required to publish these reports, and I have a right to assume that if they are not to be found in their annual publications they have no such reports. Now, I can not know, neither can any citizen of this country know, that the Interstate Commerce Commission in determining a controversy in which I may be interested, or may not, had that class of information except as we look at the observance of the law by that Commission.

Mr. NEWLANDS. If the Senator will pardon me, I did not expect the Interstate Commerce Commission in considering a case affecting a particular road to send for the original report. I think that the Senator will find that those reports are remarkably full. If there is any defect in them of course I should be very glad to see the defect pointed out and remedied; but my impression is that the original reports are very full.

As to the publication in this volume, I imagine that the statistician of the Commission in discharging his duty does it with a view to a remedy, and that it would be almost impossible, or, at all events, a very great elaboration, to publish all the data contained in these reports.

I am sure the Senator has a very valuable suggestion here, but I will suggest to him that before proceeding further upon

this amendment he look into the original reports and see whether or not they comply with the requirements of the amendment which he has prepared.

Mr. HEYBURN. It is not so important at this time to look into the manner in which these reports are being made as it is to consider the sufficiency of the existing law, or the wisdom of the proposed law upon this question. Some of these requirements are contained in existing law and in proposed legislation, but not in all of them, and it is merely an endeavor to complete and fill out the requirements of the statute, so that if the companies have been voluntarily doing that which they were not required to do, and the doing of those things is helpful or necessary, let us make it a statutory provision.

Now, Mr. President, there have been some queer things incorporated into the interstate-commerce law. I suppose that we are at liberty in this age to criticise a Congress as a Congress in the abstract of fifteen or twenty years ago. We will have to do it.

I find, and we all find, in the statutes upon this question evidence of compromise, and we know that there has been some great force at work there, either to prevent the legislation or to shape it to suit the selfish purposes of somebody.

In the present interstate-commerce act in section 4 I find one of these provisos, and we can picture in our own mind how they come about. When a great amount of persuasion is brought to bear upon the members probably in the last hours of the session or in the hour of doubt as to whether they can enact a law they say, "Oh, well, all right, we will put in a proviso."

Now, listen to this one. After enacting a wise provision, one that would have accomplished practically all that the people wanted, they laid it upon the alter of sacrifice in the proviso in section 4:

Provided, however, That upon application to the Commission appointed under the provisions of this act such common carrier may, in special cases, after investigation by the Commission, be authorized to charge less for longer than for shorter distances for the transportation of passengers or property, and the Commission may from time to time prescribe the extent to which such designated common carrier may be relieved from the operation of this section of this act.

The agitation for the enactment of the interstate-commerce law was based upon the very principles to which that exception applies. That was the subject of complaint, that the carriers were discriminating, showing favoritism, making preferred classes in cases and conditions. That was the cause of complaint. And yet after they had in the beginning of section 4 said that these carriers should not do the things complained of, for the sake of getting a bill through, a bill of some kind, of any kind, they inserted that proviso, which took the force and effect out of all of the enactment preceding it and allowed to be done the thing for which Congress in that hour was assembled to prevent. They had said in section 4:

That is shall be unlawful for any common carrier subject to the provisions of this act to charge or receive any greater compensation in the aggregate for the transportation of passengers or of like kind of property, under substantially similar circumstances and conditions, for a shorter than for a longer distance over the same line, in the same direction, the shorter being included within the longer distance; but this shall not be construed as authorizing any common carrier within the terms of this act to charge and receive as great compensation for a shorter as for a longer distance.

Now, that is where the law stood when the necessities of the occasion prompted them to accept the proviso I have just read, which took all the merit that was contained in the first part of section 4 out of it and left it equivalent to the declaration on the part of Congress that "we will turn you over to the mercy of the Interstate Commerce Commission without any bounds or limits or restrictions as to what you may be able to induce them to do."

That was the proposition in that statute. I have moved to strike out the words "under substantially similar circumstances and conditions" because they have been misused, misapplied; because the purpose the people expressed in the selection of a Congress to relieve them from their difficulties was defeated by it. The Supreme Court has taken that language as a Congressional license, authorizing them to do it, if in their judgment peculiar circumstances would not only justify but would enable them to do it. They were authorized to do it and it has been a question not of how strong the line may be drawn against unfairness by the carrier, but how it may be relaxed.

My amendment provides for the striking out of that clause. I desire to urge it at this time as a final declaration of principle upon that subject. The long and short haul clause is contained within that provision.

Then, on page 10, in line 17, because the words have been misused, because they have been made a medium of oppression, I desire to strike out the words "unjustly and unduly," because without those words the expression of the act exactly meets the requirements of justice. It says that they shall determine whether such rates are "unjust or unreasonable, or unjustly discriminatory"—they should not be discriminatory at all to any degree—"or preferential." Why should a Commission have the right to discriminate or prefer one shipper against another?

Mr. President, I suggest that the provision which I have submitted to the Senate for the review of the decision of the Interstate Commerce Commission is an absolute necessity; that if we send this legislation to the people without it they will condemn us and will say, "You have legislated for the other party. What have you done for us? You have spent weeks and months in construing the constitutional rights of the railroads. How much time have you spent in determining or considering the constitutional rights of property which the shipper or producer has, in the equal right with every other man, to the services of the common carrier?" That right is as much within the protection of the fifth amendment of the Constitution as is the right of the carrier to be compensated for services as carrier.

It has been proposed here—not for that purpose, perhaps I ought to say in fairness to those who have urged the proposition—that we shall in effect guarantee an income which is clothed in the terms "just and reasonable compensation;" that we shall guarantee an income to the transportation companies of the land. Has it been at any time proposed that we guarantee an income to the producer of the commodity whose servants these transportation companies are? He takes his chances under the law of contract.

I do not believe that the Interstate Commerce Commission is going to meet the expectation of the people in this matter. I do not believe that any department of the Government that has closed the doors, after a hearing, upon more than half of those who have applied for redress is going to meet the expectation of those in whose interest we are proposing to legislate, and I want in this hour to sound a word of warning, because it will come back to us.

This is not a party or a political question. It is one of political economics in which all the people are interested, one section of the country as much as another, from the humblest means of transportation to the palace car.

Does the present interstate-commerce law afford any relief to the people? And when I say "the people" I mean those who produce commodity and employ the common carrier. They are the people. The common carriers are a part of the people, but they are the servants of the people in that in consideration that they receive from the people the privileges and franchises under which they exercise their right as common carriers; they are given franchises of great value and the right to charge a reasonable compensation for their services, but the people who gave them that right retained the right to enjoy at their pleasure the services of these common carriers and the provisions for performing their services.

Mr. President, I do not know how much more consideration the Senate will give to the legal questions and refinements as to what we can or what we can not do. But I do know that in a great majority of the matters which come before us we do not have to approach closely either of those lines. There is a wide field for action by Congress in which it does not have to inquire minutely whether it may or may not do things. It is in this case a question of Will we do it? Does justice to the people demand that we shall create this body as an arbitrator and make ample provision for the submission of proper controversies to it, that they may create a record that shall speak the truth, and that that record, in the event of discontent by either party with the decision of the Commission, may be taken into the circuit court of the United States and there reviewed, both the law and the fact, but confined always to the record that was made before the Commission? It does not open the doors of the circuit court to a trial de novo, but leaves them to review it as they would the report of a master in chancery, and then the amendment provides that the order of the Commission shall only be stayed for the limited period of sixty days and that upon showing, except that the party asking for it can show that he has been diligent, can show a condition that will satisfy the mind of a chancellor that such order is necessary, and that the Supreme Court of the United States will not review any question except that of the rights of the parties under the Constitution appearing upon the record brought up from the circuit court—that makes a short review—and the amendment puts the order of the Commission into effect at once and does not wait thirty days after decision.

Mr. BACON. May I make an inquiry of the Senator?

Mr. HEYBURN. Certainly.

Mr. BACON. The question of this review, of course, is the vital question in this proposed legislation. For the purpose of thoroughly understanding the Senator, I wish to ask him

whether he means the court shall have the same breadth of review as if we were now to organize two commissions—an inferior and a superior commission—and that the superior commission should have the entire review of the proceedings of the inferior commission. I wish to know what that review means. Does the Senator mean that in that sense the court shall, in this proposed law, have the review of the actions of the Commission?

Mr. HEYBURN. No.

Mr. BACON. I should be glad if the Senator would differentiate.

Mr. HEYBURN. The amendment, I think, is plain in regard to that matter. The amendment provides that the certified record of the proceedings of the Commission, accompanied by a notice to the parties of the intention to review such proceedings, shall be filed in the circuit court. There, at that point, for the first time the United States circuit court obtains jurisdiction of the controversy between the complainant and the party against whom the complaint was made before the Commission. For the purpose of enabling them to decide as between those parties they consider the record, which contains all the evidence and all the deductions made by the Commission from the evidence. In other words, if a party desires his case fully presented in the circuit court, he has only to see to it that his case is fully presented before the Commission; and he would not be heard in the circuit court to complain that there were other matters that might have been introduced before the Commission, because other portions of the statute than that to which this amendment is directed provide for a rehearing before the Commission. I did not think it necessary to incorporate that into this section, because it is already provided for in the bill. When he has had all the hearings before the Commission that will enable him fully to state his case, his case is made up, and it is presented for a determination of the law and the facts before the circuit court. It is provided by this amendment that in that determination that court may say whether or not the decision of the Commission as to what the rate regulation should be was right; and then, if it is right, the court will say so; and if it is not right, it will lay down a rule as to what constitutes the right, just as the courts do now in many instances, as I have before said, where we have delegated the power to executive branches of the Government, with authority to make rules and regulations in the enforcement of a law for the ascertainment of the facts to which the law must be applied. That is already the existing practice, and we do not need to amend our statutes in that regard. The amendment merely provides that these cases shall come within that rule of practice.

Of course the hearing before the circuit court of the United States would be a full hearing upon a printed record. The court would make its own rules in regard to printing and other details. We do not make those rules. The court would doubtless at a very early day establish a rule that the record in a case should be printed.

The amendment provides for the notice, how it shall be given, to whom it shall be given, and that, upon the filing of the record, the jurisdiction of the circuit court attaches. What more do we need? Then we give the court the power to review these questions. Then we say that, having reviewed them, it may enforce its judgment, as it may in any other case. There is no lack of power when Congress has spoken, whatever they might lack in the absence of Congressional action.

Mr. BACON. Mr. President, with the permission of the Senator——

The VICE-PRESIDENT. Does the Senator from Idaho yield to the Senator from Georgia?

Mr. HEYBURN. Certainly.

Mr. BACON. I am not making the inquiry for the purpose of in any manner entering into a controversy with the Senator, although I have a somewhat definite opinion myself, but I am really extremely anxious to know what is the exact position of Senators who favor what they call the "broad review." I want to get it so accurately defined that we may be able to see whether or not we agree with it or whether we differ from it. The Senator, in response to the inquiry which I made of him in pursuance of that desire on my part, answered in the negative; and yet, if I correctly understand him, what the Senator said, in explaining what he meant by the negative, is not consistent with the negative reply, though it may be I did not properly understand what the Senator said. The Senator is contending for the right of a full review by the courts, and, in order to ascertain what he meant by that, I asked this question: If, instead of one commission with the right of review by a court, this bill proposed to organize two commissions—an inferior commission, and a superior commission charged with the duty and power of reviewing in every particular and detail the acts of the inferior commission—and if there were, under such an arrangement, if there were such a provision by which the entire action of the inferior commission were to be reviewed by the superior commission, we would know what that meant.

Mr. HEYBURN. What would it mean?

Mr. BACON. It would mean that the superior commission would have the same supervision of a case decided by the inferior commission that the Supreme Court has in an equity cause that goes from a circuit court on appeal. There they have a full case before them, and there is no element of a decision of the circuit court that the Supreme Court has not the power to revise and correct. In the same way, if we were organizing two commissions—an inferior commission and a superior commission—the design being that there should be, in the sense I have indicated, an appeal from the inferior commission to the superior commission, when the case came before the superior commission that superior commission would have full jurisdiction for the consideration of every element that entered into the consideration and determination by the inferior commission and every conclusion of the inferior commission, and its determination would cover the field as fully and as perfectly as if it had originated with that superior commission.

Now, what I desire to know of the Senator is this: Under the contention made by him for a broad review, does the Senator contend for that review in the sense I have indicated, or, rather, with the power which that review would have in case we were to organize two commissions, the inferior and the superior? Does the Senator contend for a review by the courts as full and as ample as there would be in case two commissions were created and there was an appeal from one to the other of everything involved in the consideration of a matter by the first commission? Is that what the Senator contends for?

Mr. HEYBURN. Mr. President, that is quite a question.

Mr. BACON. I think it is the question, the vital question, in this case.

Mr. HEYBURN. If I may have the Senator's attention I will answer it.

Mr. BACON. I shall be very glad to give attention.

Mr. HEYBURN. In the first place, I will eliminate the term "broad review." This discussion has resulted in coining more phrases that have no meaning, except any meaning that you choose to put upon them, than any discussion I have ever heard. A broad review, as I would probably on first impulse state it, would be a review that opened the door to a reconsideration of the case without regard to what had transpired at any former hearing—a trial de novo. That would probably be the nearest approach to a definition of broad review. I do not favor this kind of review.

Mr. SPOONER. Will the Senator say what would be a narrow review?

Mr. HEYBURN. I am going to. I have stated what a broad review is.

But first, as to the two commissions which the Senator has presented to us, I care not whether you call the first reviewing tribunal a second commission or a court; but having provided in my amendment that the reviewing authority shall be the United States circuit court, with the recognized and clearly defined powers and duties of that court, it is not necessary to define the manner in which it may deal with a question of which it has jurisdiction. I am not proposing any second reviewing board at all. It would be very interesting to me to know what might happen if such a second reviewing board were proposed; but not having proposed one, and having proposed that the decision of the original board shall be reviewed by a court of clearly defined powers and jurisdiction, it seems to me that I am relieved from a further consideration of what might happen if we provided for the second reviewing board. Now, I want to suggest to the Senator from Wisconsin——

Mr. SPOONER. If the Senator will allow me, would a second reviewing board be any more judicial than the first?

Mr. HEYBURN. No.

Mr. BACON. Oh, Mr. President, Senators do not understand me. I was simply using that by way of illustration.

Mr. SPOONER. Illustrating what?

Mr. BACON. Illustrating the extent of the review on the part of the courts for which the Senator is contending. That was for the purpose of putting an illustration where there would be no doubt as to the breadth of review.

Mr. SPOONER. Does the Senator think that it is within the constitutional capacity of Congress to limit or enlarge the judicial power in passing upon any right arising under the Constitution and laws of the United States?

Mr. BACON. I have very grave doubt about it, at least where jurisdiction of the subject-matter is given, and for that reason——

Mr. SPOONER. I did not think the Senator had any doubt about it.

Mr. BACON. Inasmuch as the Senator asked me a question, I hope he will permit me to answer it.

Mr. SPOONER. I will.

Mr. BACON. I have very grave doubt about it, certainly so far as concerns constitutional rights, and for that reason I have my interest very much excited to know what is the design, what is the desire, and what is the contemplation of those who insist upon the incorporation in this bill of a provision which shall give what they call, whether appropriately termed or not, the "broad review."

Mr. HEYBURN. But I did not——

Mr. BACON. So far as that goes, if the Senator is content with just such a review as the courts would have in the absence of any express provision in this bill, then no amendment is needed, because the bill as it came from the House is certainly in a position where the courts can take all the jurisdiction that they are entitled to exercise in a general way, outside of any express provision, and, according to the suggestion of the Senator from Wisconsin, with which I am very largely disposed to agree, that is a jurisdiction which exists outside of any express provision in this legislation. Therefore, it seems to me that whatever may be the power of Congress, we are rather engaged upon a superfluous act when we attempt to designate in this bill what shall be the jurisdiction. That is the conclusion, Mr. President, not only to which my mind is rapidly drifting, but is the direction in which it has tended all the time, and the conclusion which is becoming more and more definitely fixed in my mind. It is possible that developments in this discussion may show considerations leading to a different conclusion.

Mr. SPOONER. Now, will the Senator from Idaho and the Senator from Georgia permit me?

Mr. BACON. The Senator from Idaho has the floor.

Mr. SPOONER. But it requires the consent of both.

The VICE-PRESIDENT. Does the Senator from Idaho yield to the Senator from Wisconsin?

Mr. HEYBURN. Certainly.

Mr. SPOONER. Permit me to put a question to the Senator from Georgia?

Mr. BACON. The Senator from Idaho has granted permission.

Mr. SPOONER. It requires the consent of each.

Mr. BACON. Very well; go ahead.

Mr. SPOONER. Does the Senator from Georgia see any distinction or recognize any distinction between the power of the Federal courts in a suit brought under the fourteenth amendment to enjoin the enforcement of a rate fixed by a State under the fourteenth amendment to the Constitution and the power of the court in passing upon a rate fixed by Congress under the fifth amendment to the Constitution?

Mr. BACON. Is that the question?

Mr. SPOONER. That is the question.

Mr. BACON. The Senator has wandered from the question.

Mr. SPOONER. No.

Mr. BACON. I beg pardon; the Senator has wandered from the question immediately under discussion and has rather ventured into the field where we are promised by the Senator a very exhaustive discussion of the question of the power of courts in granting injunctions.

Mr. SPOONER. No; not at all.

Mr. BACON. I am now on the question of the breadth of review.

Mr. SPOONER. If the Senator will permit me, not at all.

Mr. BACON. Then I misunderstood the Senator.

Mr. SPOONER. I am not discussing at all, or suggesting a discussion, as to the power of Congress to restrict, as is proposed here, the chancellor in the exercise of judicial power, but this is a thing which I frankly confess to my friend from Georgia, who is a great lawyer——

Mr. BACON. I thank the Senator very much. I fear the Senator overestimates.

Mr. SPOONER. The Senator need not thank me. It is a fact; the Senator is responsible for that; not I. But this has troubled me: Where the State fixes a railway rate, either directly through legislative action or by a commission, and an original bill is filed in the circuit court of the United States to restrain the enforcement of that order upon the ground—and that is the only ground—that it violates the fourteenth amendment, I can very well see that the judicial power of the courts is more or less restricted, because the fourteenth amendment prohibits the States from passing any law which, among other things, shall take private property without due process of law, or deny the equal protection of the law. The court is to determine, as the court has often said, not whether the rate in that case is reasonable; not whether it is just compensation under the fifth amendment; but whether the rate is so low and so destructive of property rights as to constitute a taking of property without compensation as to be not due process of law.

What I wanted to attract the attention of the Senator to was this—and it has never been decided; it has never been presented to the courts of the United States, because Congress has never exercised the power until now—whether, where under an act of Congress a rate is fixed subject to the limitation of the fifth amendment, which provides two things, one of which is not provided for by the fourteenth amendment, first, that private property shall not be taken without just compensation and without due process of law, the scope of the review, the judicial power of the court, is not of necessity different in measure and scope from what it is under the fourteenth amendment?

Mr. BACON. Mr. President, I think so far as the fifth amendment is concerned—I may be in error about that, but I think not—the court would have no right to enjoin a State commission——

Mr. SPOONER. The Senator does not understand me.

Mr. BACON. The Senator asked his question, and then discussed it at such length that I really do not know that I understand definitely his question. I wish the Senator would propound it again.

Mr. SPOONER. The question is whether the Senator from Georgia recognizes a distinction between the scope of the judicial power of the Federal court, when invoked by an original bill to restrain the enforcement under the fourteenth amendment of a rate fixed by the legislature of a State, and the scope of the jurisdiction of the Federal court when invoked to restrain the enforcement of a rate fixed under the fifth amendment by the Congress of the United States?

Mr. BACON. Well, Mr. President, I do not think a State would have the right to violate the provision of the fourteenth amendment, nor do I think Congress would have the right to violate the fifth amendment. As to which is the greater obligation, that is another matter. I do not know how to draw the distinction between the two, except that it is one of degree.

Mr. HEYBURN. I only desire to say that the discussion between the Senator from Wisconsin [Mr. SPOONER] and the Senator from Georgia [Mr. BACON] has wandered somewhat from the point that I desire to answer.

Mr. SPOONER. I understand that was just the distinction which the Senator from Idaho drew.

Mr. HEYBURN. I wanted to answer the question of the Senator from Wisconsin and then let its application follow. The question remains unanswered.

Mr. FULTON. Will the Senator allow me to put in a question?

Mr. HEYBURN. I would gladly yield to the Senator, but I desire to answer this question.

Mr. FULTON. You can answer the one I wish to propose at the same time.

Mr. HEYBURN. Sometimes it may be convenient to bunch questions in that way, but it is not always so. The Senator from Wisconsin asked me a question. He asked me with reference to a broad or a narrow review and as to what my amendment provided. I would call his attention to the provision in this amendment for a review, and you can call it either a broad or a narrow review as may seem best to you. The jurisdiction of the circuit court being attached, the amendment provides:

> The jurisdiction of said circuit court shall fully attach for the purpose of determining all questions of law and fact presented by said record, and the court is empowered and authorized upon such review in the event that it shall find upon the record that the rate complained of is either unjust, unreasonable, discriminatory, preferential, or prejudicial, or that the charge or practice complained of is unjust or unreasonable, to fix and determine such a rate or practice as in its judgment shall be just, reasonable, and not discriminatory, preferential, or prejudicial.

They must do it upon the record which comes from the Interstate Commerce Commission to the court, and I direct the attention of the Senator from Georgia to this part of my reply. The court being a judicial tribunal is presumed rightly to be best able to apply the legal principles by which what is right and just and reasonable are to be determined as to those facts, and that is the object and purpose of the review; and in that it is not a second board, but a judicial tribunal.

Mr. BACON. Will the Senator pardon me a moment?

The VICE-PRESIDENT. Does the Senator from Idaho yield to the Senator from Georgia?

Mr. HEYBURN. Certainly.

Mr. BACON. The amendment of the Senator is for the purpose of directing the attention of the Commission and the court

to anything which is "unjust, unreasonable, discriminatory, preferential, or prejudicial." Now, I should like, by way of illustration, if the Senator would point out, assuming that the Commission has made an award, or rather fixed a rate——

Mr. SPOONER. That is not an award.

Mr. BACON. I corrected myself, and I said "fixed a rate," that is complained of. Now, I desire the Senator to point out, if he can, what particular act of the Commission in fixing that rate would or would not be reviewable by the court under his amendment, or rather, I would say, would not be reviewable by the court under his amendment.

Mr. HEYBURN. Every one of those questions might, or only one of them might, be involved in the review.

Mr. BACON. Very well, but——

Mr. HEYBURN. That would depend upon the facts of the particular case.

Mr. BACON. Now, if the Senator will pardon me——

Mr. HEYBURN. The law being applicable to the facts which may arise in each case, the court would only apply them so far as they would be applicable.

Mr. BACON. I understand the Senator to say that, under the review given the court, the court would have the right to review and reverse any judgment by the Commission, if we may call it a "judgment," or any order by the Commission which was either "unjust or unreasonable or discriminatory or preferential or prejudicial."

Mr. HEYBURN. Yes.

Mr. BACON. That is pretty broad.

Mr. HEYBURN. Any one of them.

Mr. BACON. If the Senator will pardon me, those are the things which the Senator suggests under his amendment shall be reviewable. Will the Senator now suggest any act by the Commission in the making of this order, which, under the above language of his amendment, the Senator does not think would be reviewable? Can he suggest any single act of the Commission which, under the words of his amendment, he does not think would be reviewable under his amendment?

Mr. HEYBURN. Does the Senator mean any act enumerated here, or any act at all?

Mr. BACON. Any act at all.

Mr. HEYBURN. We are legislating within the restrictions of the legislation proposed. It is not necessary to go outside——

Mr. BACON. I wish to put a question to the Senator.

Mr. HEYBURN. If the Senator will pardon me, I want to answer the question which has been propounded. I am not going to be led outside of the limits of the subject-matter of the legislation existing and proposed.

There may be a hundred things that may be done that might or might not be reviewable, but this amendment enumerates the things that are reviewable, and the present statute enumerates the same things that are reviewable. So I do not think the question that the Senator asks is, in all friendliness, a fair question at all, because I am not proposing by this amendment that the court shall review any other questions than those enumerated. I have not gone beyond the enumeration of the existing statute nor of any proposed amendment.

Mr. BACON rose.

Mr. HEYBURN. Now, if the Senator will permit me——

Mr. BACON. Will the Senator permit me?

Mr. HEYBURN. Yes.

Mr. BACON. Will the Senator let me vary the question, as I was not fortunate in so phrasing it before as to meet the Senator's approbation? Will the Senator suggest any act of the Commission in making any order fixing any rate which would not fall within one of these designations, if there was fault found with it that it was either "unjust, unreasonable, discriminatory, preferential, or prejudicial?"

Now, if the Senator will pardon me, in order that I may make myself clearly understood——

Mr. HEYBURN. I want to answer the question.

Mr. BACON. If the Senator objects to my propounding an inquiry I will not intrude upon him.

Mr. HEYBURN. No; I merely wanted to answer the question that had been asked.

Mr. BACON. But I want to ask another question.

Mr. HEYBURN. I do not want the Senator to ask a question and answer it himself.

Mr. BACON. I was not proceeding to do so; but if the Senator objects, I will not intrude further upon him.

Mr. HEYBURN. I have not the slightest objection to a question. The Senator asked me whether or not I could think of any other subject than those enumerated. Perhaps I could, but it is immaterial whether I could or not. Those enumerated are the recognized questions necessary to be covered by the legislation. The question of whether or not a rate is unjust is certainly one that can be readily conceived of under many circumstances. It would be unjust to charge one man more than another. The word "unjust" probably comprehends every other word in that category, and those other definitions and distinctions are there because they are unjust. The word "unreasonable" is broad enough to cover every one of them, because that is an unreasonable rate which is an unjust rate or a discriminatory or a preferential rate. The words "discriminatory" and "preferential" are in classes of themselves and have a distinct meaning that is recognized both in and out of the courts.

It depends upon the testimony. For instance, take some of the decisions that have already been rendered, or imagine a case. It is a discriminatory act if you permit me to have a rebate, secret or otherwise, because it discriminates in your favor as a carrier and against me as a shipper; it is discriminatory if you refuse to furnish another man cars and furnish them to me. That is a discrimination. It is not difficult for a court, in reviewing the act of a commission, to say whether or not, under the facts that are in the record, those offenses have been committed. It is the natural function of the court to do that; it is what the court does every day in other matters of business and life—to say whether or not that is the case.

Mr. FULTON. Mr. President——

The VICE-PRESIDENT. Does the Senator from Idaho yield to the Senator from Oregon?

Mr. HEYBURN. Yes; I yield to the Senator.

Mr. FULTON. I should like to call the Senator's attention back to the suggestion made by the Senator from Wisconsin a moment ago, if he does not object to it.

Mr. HEYBURN. I do not object at all.

Mr. FULTON. I should like to hear the Senator on the proposition suggested by the Senator from Wisconsin a moment ago. The question suggested by the Senator from Wisconsin was whether or not there is any difference in the power to be exercised by the court, if I understood him, in entertaining a suit brought to restrain the putting in force of a schedule of rates made under a statute enacted by a State legislature—the Federal court, of course, exercising its power solely under the fourteenth amendment, which prohibits the taking of private property without due process of law, and a suit brought to restrain a rate pursuant to an act of Congress, under the fifth amendment, where property is prohibited from being taken without just compensation. I want to ask the Senator if the question as to what constitutes taking of property is not involved in either and equally in both classes of cases?

Mr. HEYBURN. It necessarily is.

Mr. FULTON. What constitutes, then, a taking of private property without due process of law must be the same as what constitutes a taking without just compensation up to the point of compensation. Therefore if the Supreme Court——

Mr. SPOONER rose.

Mr. FULTON. Just a second. If the Supreme Court, under the fourteenth amendment, shall define what constitutes a taking, that would necessarily be the same definition, would it not, that the court would say would apply, if the question of want of just compensation were also involved? That is the proposition.

Mr. SPOONER. Will the Senator from Idaho permit me?

The VICE-PRESIDENT. Does the Senator from Idaho yield to the Senator from Wisconsin?

Mr. HEYBURN. Yes.

Mr. SPOONER. I am not controverting at all the line of thought of the Senator from Idaho. On the contrary, he is speaking of a distinction which seems to me to exist.

Almost every State constitution provides that private property shall not be taken for public use without just compensation. Suppose the legislature of a State passes a law providing for a railroad commission, and gives to that commission the power to fix rates, and confers upon the courts of the State the power to review, as is done in my State and many other States, the question whether the rate fixed by the commission is or is not a just compensation within the meaning of the constitution of the State; what question does that present to the courts of the State? Simply the question whether the taking is without due process of law, because the rate is so low as to destroy the value of the use of the property?

Mr. FULTON. Let me ask the Senator, Would it not be, in that case, what constituted the taking of property?

Mr. SPOONER. Yes; but it would not be what constitutes the taking of private property without just compensation. Now, would not in that case the court of the State be authorized and required to consider the question upon the proof at the trial whether the compensation was or was not a just compensa-

tion? That is what courts are for—to protect from invasion the rights secured by constitutional provisions.

If the Senator will permit me, when you come to the fourteenth amendment it has seemed to me—and I am troubled about it—that the question presented to the courts of the United States on an original bill to restrain the enforcement of a rate fixed by a State, on the ground that it violated the fourteenth amendment, was different. The fourteenth amendment says nothing about the taking of private property without just compensation. It provides that private property shall not be taken without due process of law; and the courts of the United States, therefore, have held themselves limited to inquiring and deciding not whether any rate fixed was just compensation, for the courts of the United States are not carrying into operation the constitution of the State or the laws of the State. Their only ground of interference is the alleged violation of the fourteenth amendment, and they therefore consider whether the rate fixed is so low as to constitute, because of the utter absence of just compensation, a taking without due process of law.

I now come to the fifth amendment to the Constitution, which puts the legislation of Congress on precisely the same basis that the legislation of the State is put on under the constitution of the State.

Mr. FULTON rose.

Mr. SPOONER. I want to add this question: Whether the question as to the validity of a rate fixed by Congress, or the compensation, in other words, fixed by the Commission under an act of Congress, which is subject to the limitations of the fifth amendment, is not precisely the same as the question which the State court is obliged to consider under the State constitution embodying the same language—that is, whether the rate is or is not just. That is what I want to present to the Senator.

Mr. BACON. If the Senator from Idaho will pardon me for a moment, in order that my meaning may be plain, in a review by a court of the acts of the Commission with these proposed powers, the court is not limited to the question of the value of the property or what may represent property, because the powers conferred upon the Commission go beyond the mere matter of fixing rates and include regulations and practices; and when it comes to that it is a very different thing. One is under explicit constitutional protection, while the other may not be. It is a very different question from that suggested by the Senator from Wisconsin or the Senator from Idaho; at least it is not covered, as I understand, by anything they have so far said.

I had that distinction in mind when I was endeavoring to get from the Senator from Idaho a definition of what he meant by "the review of the court." I was not limiting my suggestion to the contemplation simply of a review of the matter of the rate; and if I understood the Senator from Idaho correctly, it would embrace every regulation and every practice prescribed by the Commission if the court is to have an unlimited review.

Mr. SPOONER. If the Senator from Idaho will permit me, I value the opinion of the Senator from Georgia, and I want to ask him this question, if he will allow it.

Mr. BACON. Certainly.

Mr. SPOONER. Whether, in his mind, there is not a distinction, and a clear distinction, between the due process of law under the fourteenth amendment and the just compensation under the fifth amendment.

Mr. HEYBURN. I suggest to the Senator from Wisconsin, although I do not want to interrupt the colloquy between him and the Senator from Georgia, that the fourteenth amendment has not application at all outside of the States. It is intended only to control the States, and its language has been construed so often that I do not see how it can possibly affect the consideration of this question. It is an interesting subject, but the language of the clause of the construction placed on it takes it out of the consideration of this question entirely. It says:

> Nor shall any State deprive any person of life, liberty, or property, without due process of law.

There is no more of the element of the fifth amendment in that than there is in the Pentateuch.

Mr. SPOONER. Will the Senator pardon me?

Mr. HEYBURN. Yes.

Mr. SPOONER. That had occurred to me, and was the keynote, as I understood, of the Senator's amendment and the Senator's argument.

Mr. HEYBURN. I am sorry the Senator so understood it, because it is not based upon that to any extent——

Mr. SPOONER. No——

Mr. HEYBURN. Or in any manner whatever.

Mr. SPOONER. We are not proceeding here under the fourteenth amendment.

Mr. HEYBURN. Not at all.

Mr. SPOONER. I know that.

Mr. HEYBURN. It has no application to the question under consideration.

Mr. SPOONER. I understand, but we are proceeding under the fifth amendment.

Mr. HEYBURN. It was intended as a limitation upon the States. It has nothing whatever to do with a question of this kind. If there is a limitation of our power, or a direction of the manner of its exercise, it is in the fifth amendment of the Constitution, and that amendment does have to be considered, but not to the extent of controlling our deliberations here. There is ample power for us to legislate upon this question and to pass it by without disrespect to it or disregarding its injunction. The fifth amendment to the Constitution of the United States was intended to protect individual property against the taking by any kind of government, by any process, except in the manner to be exercised under the amendment.

Mr. FULTON. Mr. President——

The VICE-PRESIDENT. Does the Senator from Idaho yield to the Senator from Oregon?

Mr. FULTON. If it will not annoy the Senator from Idaho I should like to explain briefly the idea I had in propounding to the Senator from Wisconsin the question I did.

Mr. HEYBURN. It will not disturb me.

Mr. FULTON. It seems to me that under the fourteenth amendment, which prohibits the taking of private property without due process of law, and under the fifth amendment, which prohibits the taking of private property for public use without just compensation, the rules of construction in the two cases must run parallel up to the point and until it has been determined what constitutes a taking. Under the fourteenth amendment the Supreme Court has time and again said that a rate fixed by a State commission which precludes the carrier from realizing a sufficient income to meet his expense and pay a fair return on his investment or on the value of his property, is a taking without due process of law. Now, do they not, in passing on that, virtually determine what would also be a just compensation?

Mr. HEYBURN. I call the Senator's attention to the fact that the language is exactly the same in both the fifth and the fourteenth amendments in regard to that question. The fifth amendment is larger in its application and wider than the fourteenth. Let me call the Senator's attention to the distinction in the language. The fifth amendment says:

> Nor be deprived of life, liberty, or property without due process of law; nor shall private property be taken for public use without just compensation.

That is the fifth amendment. All there is in the fourteenth amendment is a repetition of a part of that amendment:

> Nor shall any State deprive any person of life, liberty, or property without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

It did not need the repetition of that in the fourteenth amendment at all except as a limitation on the State. It was already in the fifth amendment as a national principle.

So, as I said a few moments ago, we do not consider the fourteenth amendment at all in disposing of this question. Every principle that is stated in it that might be applicable or useful was already contained in the fifth amendment to the Constitution.

As I have endeavored to show, the rights of the two parties here are the same. If we can not take the property of the carrier we certainly can not take the property right of the owner of the commodity, because his right to participate in the services of the common carrier is just as much property as the right of the carrier to compensation for its services; and to pass him by, as he seems to have been passed by for the last twenty years or thereabouts, it seems to me is doing less than our duty, if it is not an open and violent disregard of, and an outrage upon, the rights of the very party in whose interest we are assuming to act and whose interests we would be overlooking entirely.

Mr. CULBERSON. I desire to ask the Senator from Idaho a question.

The VICE-PRESIDENT. Does the Senator from Idaho yield to the Senator from Texas?

Mr. HEYBURN. Certainly.

Mr. CULBERSON. It may be that while I was out of the Chamber the Senator from Idaho has touched upon the question to which I wish to invite his attention in reference to his amendment, but nevertheless I direct his attention to its language, on page 3:

> And the court is empowered and authorized upon such review, in the event that it shall find upon the record that the rate complained of is either unjust, unreasonable, discriminatory, preferential, or prejudicial, or that the charge or practice complained of is unjust or un-

reasonable, to fix and determine such a rate or practice as in its judgment shall be just, reasonable.

The Senator seems by that clause of the amendment to intend to confer the rate-making power on the circuit courts of the United States, authorizing them to fix a rate which will operate in the future. But it seemed to me that if there was any quesion settled by the Supreme Court of the United States it was that the courts had no such power and could not be clothed with such power; and I invite the attention of the Senator to a paragraph in the Reagan case (154 U. S., p. 400):

As we have seen, it is not the function of the courts to establish a schedule of rates. It is not, therefore, within our power to prepare a new schedule or rearrange this. Our inquiry is limited to the effect of the tariff as a whole, including therein the rates prescribed for all the several classes of goods, and the decree must either condemn or sustain this act of quasi legislation. If a law be adjudged invalid, the court may not in the decree attempt to enact a law upon the same subject which shall be obnoxious to no legal objections. It stops with simply passing its judgment on the validity of the act before it. The same rule obtains in a case like this.

I call the attention of the Senator, repeating somewhat what I have said, that if there is any question which seems to be settled by the Supreme Court of the United States it is that the courts will not exercise the power to fix a rate which shall be operative in the future. Notwithstanding, it seems that the Senator's amendment is intended to incorporate such a provision in the law.

Mr. HEYBURN. The court in the case to which the Senator refers and in the case upon which their decision in that particular case is based stated that Congress had not given them the power which they decline to assume. They are there interpreting the law that we are proposing to amend. The question is not whether that law is or is not right. The question is whether we will change that law and give the court this power. It is a very different proposition. The court said in another case in which that decision is used that Congress has not given the court the power to do more than to review the decision and say whether it was right; that it has not given the courts the power to say what shall be a lawful rate, inferring that when Congress shall see fit to give it the power it would exercise it. That is the difference between those cases.

Mr. TELLER. Mr. President, I do not wish to detain the Senate by making a speech. I desire, however, to ask the Senator from Idaho or any other Senator who is willing to answer a question.

It seems to me that the principal matter of controversy just now is as to the court review; just what it is; how broad it shall be, or how limited. I should like to have some Senator tell me what is the difference between the Bailey amendment and the Long amendment, save and except the fact that the Senator from Texas [Mr. BAILEY] in his amendment provides that there shall be no interlocutory injunction. Are not those two amendments practically the same, and is not the Senator's [Mr. HEYBURN] amendment practically the same, so far as the court review is concerned? Would not the same end be accomplished by either one of those amendments, looking simply to the question of court review, if adopted?

It seems to me the court review must be what the party complaining makes it. He may complain of everything the Commission has done; he may complain of only one thing the Commission has done, whether the complainant is the carrier or the shipper, and I think the shipper should be allowed to make complaint as well as the carrier. I would like to have the Senator from Idaho answer it, if he has given it sufficient thought.

Mr. HEYBURN. I have considered the question, and I have a note before me which I had intended to take up, comparing the different provisions in the different amendments and in the original bill, and I had made some analysis of them, but I had so long overrun the time I intended to occupy that I omitted to do so.

I will make this suggestion in reference to the amendment proposed by the Senator from Texas [Mr. BAILEY]. It provides:

Any carrier, or person, or corporation, party to such complaint, and dissatisfied with the rate—

That would cover both parties.

Mr. TELLER. Yes.

Mr. HEYBURN. Yes—

or charge, regulation or practice so established and prescribed, may file a bill against the Commission in any circuit court of the United States for the district in which any portion of the line of the carrier or carriers may be located, alleging that such rate or charge will not afford a just compensation for the service or services to be performed, or that the regulation or practice is unjust and unreasonable.

The first part of that could not possibly contemplate the right of the complainant, because he is not asking for just compensation.

Mr. TELLER. No.

Mr. HEYBURN (reading)—

For the service or services to be performed, or that the regulation or practice is unjust or unreasonable—

If he came in at all it would be under the second clause—

Or that the regulation or practice is unjust and unreasonable; and if upon the hearing the court shall find that such rate or charge will not afford a just compensation—

That can not refer to the shipper—

for the service or services to be performed, or that the regulation or practice is unjust and unreasonable—

Those regulations and practices of course all emanate from the carrier; they are not the practices of the shipper—

it shall enjoin the enforcement of the same.

The very fact that it enjoins the enforcement of the order that is made against the railroad company cuts out any possible interpretation that the amendment is intended to give the right to the complaining party to have it reviewed. It shows that that portion of the amendment was not intended to include the complainant at all, because all its provisions are directed to the relief that may or may not be granted to the carrier. Then this statement says:

This amendment so far would seem to provide for a review upon the question as to whether or not such rate or charge will afford just compensation for the service or services to be performed, or whether the regulation or practice is unjust or unreasonable, for it is only in the event of the court so finding that it is authorized to enjoin the enforcement of the order. And this would not include the consideration by the court of the rights of the complaining party, the shipper or producer, because such shipper or producer does not render services to be performed, and the question of just compensation can only apply to such services.

Mr. TELLER. What is the Senator reading from?

Mr. HEYBURN. From the notes I had made.

Mr. TELLER. Go on.

Mr. HEYBURN. I say:

The proviso of the Bailey amendment relates to the practice in regard to suspending orders and precludes clearly suspension of any rate charge, regulation, or practice prescribed by the Commission by any preliminary or interlocutory decree or order by the court. The right of appeal to the Supreme Court of the United States clearly is limited to the carrier and the Commission.

In its provision for appeals to the Supreme Court of the United States it is not broad enough to permit the complainant to take advantage of it.

Now, I have similar notes with respect to all the amendments and all of the provisions contained in the amendment regulating the appeal, and I only left them out of my talk to-day because of the time I have already occupied. I also have the Long amendment annotated in the same way.

Mr. TELLER. As I said, I do not desire to go on and discuss this question now, but it seems to me we have discussed it long enough now to get to some positive provision as to what the review shall be. I have not been able to learn from any speaker exactly what he was satisfied to have reviewed. I understand, of course, that all these questions could be complained of by the carrier; that it could complain of any improper regulation just as well as it could that a rate was confiscatory, if the regulation invaded its right. Whatever is at issue must be what is complained of. If he complains of all the things, they are all at issue. If he complains of one of them, that is the only one in issue.

Of course, this is an irregular kind of a proceeding, by petition. I presume the court will hold eventually that this proceeding, although called a petition, must conform to the equity practice. A man comes in by petition, and he has to state in his petition what his grievance is. And when he comes to trial, he will be limited to what he has alleged in his petition. He will not be allowed to enter the whole field unless he has complained of the whole. That is my notion about it.

Under the bill as it came from the House there are two things the Commission may do. It may first determine that the rate fixed by the railroad company is unfair and unjust and improper. And then it may fix one that it says is just and proper. There are two issues to be made there by the railroad company. In the first place, they can say when they get into court, "The rate established by the company is a just and proper one." Secondly, they may say the rate fixed by the Commission is not just and proper. You have two questions. One, of course, is a negative of the other. Will anyone contend that the court may determine that the rate fixed by the railroad is not fair, and stop there? Will not the railroad company be accorded an opportunity to prove that

the rate fixed by the Commission is unfair? For, you may say what you are a mind to about it, this fixes rates. Is the court limited to saying that the rate fixed by the Commission is confiscatory? Not at all, in my judgment.

I have made these suggestions, and I hope somebody who has given thought to the question how extensive the review will be will give it attention. So far as I am concerned, I believe that whatever the railroad company or the shipper, if he is allowed to come in, as he should be, complains of should be a matter for the consideration of the court.

Mr. LODGE. I offer an amendment to the pending bill, which I ask may be printed and lie on the table.

The VICE-PRESIDENT. The proposed amendment presented by the Senator from Massachusetts will be printed and lie on the table.

INDIAN APPROPRIATION BILL.

Mr. CLAPP. I ask unanimous consent that the unfinished business be temporarily laid aside, and that the Senate proceed to the consideration of the Indian appropriation bill.

The VICE-PRESIDENT. Is there objection to the request of the Senator from Minnesota?

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the bill (H. R. 15331) making appropriations for the current and contingent expenses of the Indian Department, for fulfilling treaty stipulations with various Indian tribes, and for other purposes, for the fiscal year ending June 30, 1907, which had been reported from the Committee on Indian Affairs with amendments.

Mr. CLAPP. I ask unanimous consent that the formal reading of the bill be dispensed with, that the bill be read for amendment, and that the committee amendments may be considered as they are reached in the reading of the bill.

The VICE-PRESIDENT. Without objection, that course will be pursued.

Mr. CLAPP. I call the attention of Senators present to the fact that at the back of the bill there is an index and that the report is also indexed. The clerk of the committee prepared these, and they will be convenient to Senators in referring to the bill or the report.

The VICE-PRESIDENT. The Secretary will proceed to read the bill.

The Secretary proceeded to read the bill. The first amendment of the Committee on Indian Affairs was, under the subhead "President," on page 2, after line 13, to strike out:

That no part of the moneys herein appropriated for fulfilling treaty stipulations shall be available or expended unless expended without regard to the attendance of any beneficiary at any school other than a Government school.

And to insert:

Mission schools on an Indian reservation may, under rules and regulations prescribed by the Commissioner of Indian Affairs, receive for such Indian children duly enrolled therein the rations of food and clothing to which said children would be entitled under treaty stipulations if such children were living with their parents.

Mr. GALLINGER. Let the amendment go over.

Mr. LODGE. I ask that the amendment be passed over.

The VICE-PRESIDENT. The amendment will go over.

The next amendment was, on page 2, after line 23, to insert:

That upon the petition of any Indian allottee to whom a trust or other patent containing restrictions upon alienation has been or shall be issued under any law or treaty the President may in his discretion continue such restrictions on alienation for such period as he may deem best.

The amendment was agreed to.

The next amendment was, under the subhead "Secretary," on page 3, line 20, before the word "in," to strike out "purchase" and insert "purchases;" so as to read:

That as far as practicable Indian labor shall be employed and purchases in the open market made from Indians, under the direction of the Secretary of the Interior.

The amendment was agreed to.

The next amendment was, on page 4, line 5, after the word "reported," to insert "to Congress with the reason therefor;" and in line 6, after the word "detail," to strike out "and the reason therefor, to Congress;" so as to read:

That any diversions which shall be made under authority of this section shall be reported to Congress with the reason therefor in detail at the session of Congress next succeeding such diversion.

The amendment was agreed to.

The next amendment was, on page 5, after line 2, to insert:

That the homestead settlers on all ceded Indian reservations in Minnesota who purchased the lands occupied by them as homesteads be, and they hereby are, granted an extension of one year's time in which to make the payments now provided by law.

The amendment was agreed to.

The next amendment was, on page 5, after line 7, to strike out:

That when not required for the purpose for which appropriated, the funds herein provided for the pay of specified employees at any agency may be used by the Secretary of the Interior for the pay of other employees at such agency; but no deficiency shall be thereby created; and, when necessary, specified employees may be detailed for other service when not required for the duty for which they were engaged; and that the several appropriations herein or heretofore made for millers, blacksmiths, engineers, carpenters, physicians, and other persons, and for various articles provided for by treaty stipulation for the several Indian tribes, may be diverted to other uses for the benefit of said tribes, respectively, within the discretion of the President, and with the consent of said tribes, expressed in the usual manner; and that he cause report to be made to Congress, at its next session thereafter, of his action under this provision.

The amendment was agreed to.

The next amendment was, on page 6, after line 14, to insert:

That the act entitled "An act to provide for the allotment of lands in severalty to Indians on the various reservations, and to extend the protection of the laws of the United States and the Territories over the Indians, and for other purposes," approved February 8, 1887, be, and is hereby, amended by adding the following:

"No lands acquired under the provisions of this act shall, in any event, become liable to the satisfaction of any debt contracted prior to the issuing of the final patent in fee therefor.

The amendment was agreed to.

The next amendment was, at the top of page 7, to insert:

That where, under existing laws, timber has been cut from the allotment of any Indian under contract approved by the Interior Department the Secretary be, and he hereby is, directed to immediately cause to be paid to said allottees, or their heirs, all moneys on deposit to their credit and all sums due the said allottees from the timber so cut, said payments to be made to the parties in interest or their next of kin or guardian upon his personal check drawn upon said funds: *Provided*, That the Secretary of the Interior be, and he is hereby, directed to investigate and report to Congress whether the Indians upon reservations having timber, and Indians owning allotments with timber, may not themselves, under the supervision and instruction of competent men to be appointed for that purpose from the Interior Department, cut and manufacture said timber to the end that they may receive a price more nearly commensurate with the value of said timber, and at the same time may become familiar with the business of manufacturing lumber.

The amendment was agreed to.

The next amendment was, on page 7, after line 18, to insert:

That when the land of deceased allottees has been sold under existing laws, the Secretary of the Interior be, and he hereby is, directed to immediately cause to be paid to the heirs of said deceased allottees any and all moneys on deposit due said heirs from the sale of said land of said deceased persons, and that he be further directed to cause to be paid immediately upon collection, all moneys due Indian allottees or their heirs as the proceeds of leases upon individual allotments: *Provided*, That no money accruing from any lease or sale of lands held in trust by the United States for any Indian shall become liable to be subjected to the payment of any debt of, or claim against, such Indian contracted or arising during such trust period, or, in case of a minor, during his minority, except with the approval and consent of the Secretary of the Interior, who is hereby vested with full power and authority to do and perform all things necessary hereunder.

The amendment was agreed to.

The next amendment was, on page 8, line 17, before the words "per centum," to strike out "three" and insert "four;" so as to read:

That the shares of money due minor Indians as their proportion of the proceeds from the sale of ceded or tribal Indian lands, whenever such shares have been, or shall hereafter be, withheld from their parents, legal guardians, or others, and retained in the United States Treasury by direction of the Secretary of the Interior, shall draw interest at the rate of 4 per cent per annum, unless otherwise provided for, etc.

Mr. GALLINGER. I will venture to ask the chairman of the committee why that amendment has been made? We are pretty fortunate nowadays if we get 3 per cent on safe investments in ordinary business. I should like to know why we should pay more to these Indians than the House thought was a fair interest. The Senator from Minnesota doubtless can give me the desired information.

Mr. CLAPP. There is another provision somewhere, I think, that also provides for 4 per cent, and the Department thought it was better to have the same rate of interest drawn in both cases. Personally I myself think 3 per cent would be a sufficient interest.

Mr. GALLINGER. While we look up the other provision, I will ask that the amendment may go over.

The VICE-PRESIDENT. The amendment will be passed over for the present.

The next amendment was, on page 8, after line 24, to insert:

That as to any Indian lands allotted under any law or treaty without the power of alienation and within a reclamation project approved by the Secretary of the Interior, all restriction as to alienation as to any such allottee is hereby removed subject to the approval of the Secretary of the Interior and under such rules and regulations as he may prescribe, to the end that such allottee may alienate so much of his allotment as may not be necessary for him, in the opinion of the Secretary of the Interior, to retain, and to the end that such allottee may enter into the necessary agreement as to the portion of his allotment to be retained; provided for in the act of June 17, 1902 (32 Stats., p. 389).

The amendment was agreed to.

The next amendment was, on page 9, after line 12, to strike out:

That any Indian allotted lands under any law or treaty without the power of alienation, and within a reclamation project approved by the Secretary of the Interior, may sell and convey any part thereof, under

rules and regulations prescribed by the Secretary of the Interior, but such conveyance shall be subject to his approval, and when so approved shall convey full title to the purchaser the same as if final patent without restrictions had been issued to the allottee: *Provided*, That the consideration shall be placed in the Treasury of the United States, and used by the Commissioner of Indian Affairs to pay the construction charges that may be assessed against the unsold part of the allotment, and to pay the maintenance charges thereon during the trust period, and any surplus shall be a benefit running with the water right to be paid to the holder thereof.

The amendment was agreed to.

The next amendment was, under the subhead "Commissioner," on page 12, line 5, after the word "service," to strike out "and that so much of the acts of March 2, 1892, and April 21, 1904, which require the Commissioner to report annually the names of all employees in the Indian Service is hereby also repealed;" so as to make the clause read:

That so much of the section 3 of the act of August 15, 1876, as required the Commissioner of Indian Affairs to embody in his annual report a detailed and tabular statement of all bids and proposals received for any services, supplies, and annuity goods for the Indian service, together with a detailed statement of all awards of contracts made for any such services, supplies, and annuity goods for which said bids or proposals were received, is hereby repealed, and hereafter he shall embody in his annual report only a detailed statement of the awards of contracts made for any services, supplies, and annuity goods for the Indian service.

Mr. GALLINGER. I will ask the Senator in charge of the bill why that amendment is made. I do not quite understand the purpose of the amendment. Will the Senator explain it? As I understand it, and I think that is right, if those words are stricken out the Commissioner is required to certify the employment. Am I correct, I will ask the Senator?

Mr. CLAPP. Well, not in detail. It was thought that that was an expense and labor hardly necessary, and so the committee struck it out.

Mr. GALLINGER. That is all right.

The amendment was agreed to.

The next amendment was, on page 12, line 13, before the word "thousand," to strike out "ten" and insert "twenty;" and in line 13, after the word "dollars," to insert "$10,000 of which to be used exclusively in the Indian Territory;" so as to make the clause read:

To enable the Commissioner of Indian Affairs, under the direction of the Secretary of the Interior, to take action to suppress the traffic of intoxicating liquors among Indians, $20,000, $10,000 of which to be used exclusively in the Indian Territory.

The amendment was agreed to.

The next amendment was, on page 12, line 17, before the word "thousand," to insert "and sixty;" so as to make the clause read:

For support of Indian day and industrial schools, and for other educational purposes not hereinafter provided for, $1,360,000.

The amendment was agreed to.

The next amendment was, on page 12, line 21, before the word "thousand," to strike out "fifteen" and insert "ninety-three;" so as to make the clause read:

For construction, purchase, lease, and repair of school buildings, and sewerage, water supply, and lighting plants, and purchase of school sites, and improvement of buildings and grounds, $493,000.

The amendment was agreed to.

The next amendment was, on page 12, line 23, making the total appropriation for "General provisions" in connection with the Office of Indian Affairs $1,793,000, in lieu of $1,715,000.

Mr. LODGE. As we have amended the preceding items, the total is $1,853,000, as I figure it, and it ought to read that way.

Mr. CLAPP. The committee will accept the amendment to the amendment.

Mr. DUBOIS. There is obviously a mistake there, and I call the attention of the chairman of the committee to it. There is an appropriation of $18,000 which the committee made, and it should go in there. My attention was just called to it.

Mr. LODGE. Certainly as it stands it does not correspond to the figures. This total covers $1,360,000——

The VICE-PRESIDENT. The Assistant Secretary stated that it covers the item of $20,000 in line 13.

Mr. LODGE. Does it cover the $20,000 also? Then $20,000 in the first paragraph, $1,360,000 in the second, $493,000, make $1,873,000. There can not be any question about the figures.

Mr. DUBOIS. I ask that the item may go over. There is an item for $18,000 which the committee agreed to and which should be there.

Mr. LODGE. That would make the total more erroneous than it is now. Does not the Senator see that it is over a hundred thousand dollars short?

Mr. CLAPP. I desire to amend it so that it will be correct.

The VICE-PRESIDENT. The Senator from Wisconsin moves the following amendment, which will be stated.

The SECRETARY. It is proposed to correct the total in lines 23 and 24 so as to read:

In all, $1,873,000.

Mr. LODGE. Now, I should like to ask the Secretary, who added $20,000 to my original figures, if that is not a separate appropriation not included in the total? There is a period at the end of that paragraph.

Mr. CLAPP. I think the Senator is right.

Mr. LODGE. That is a separate and isolated appropriation. Therefore I suggest that we amend lines 23 and 24 so as to read:

One million eight hundred and fifty-three thousand dollars.

The amendment to the amendment was agreed to.

The amendment as amended was agreed to.

The next amendment was, on page 13, line 8, after the word "dollars," to insert the following proviso:

Provided, That not exceeding $5,000 of this amount may be used under direction of the Commissioner of Indian Affairs in the transportation and placing of Indian pupils in positions where remunerative employment can be found for them in industrial pursuits. The provisions of this section shall apply to native pupils brought from Alaska.

Mr. McCUMBER. Mr. President, I suppose I hardly should take advantage at this time of an objection to that amendment, but I was not in the committee at the time it was adopted. I simply want to enter now my protest against that provision or any similar provision. It is simply a provision to authorize the Commissioner of Indian Affairs to find places of employment for Indian girls and boys—mostly, I understand, girls—from those schools. My own opinion is that no good whatever has come of taking these girls away from the schools and sending them out into private employment, and I do not think that any sum of money should be used for that purpose.

Mr. GALLINGER. Mr. President, as I heard the proposed amendment read it struck me as being a very wise provision, and I certainly shall give it my hearty support, unless the Senator from North Dakota can present some facts showing that no good has come from an effort along these lines.

I know it is frequently said that when the young Indian boys whom we educate at Carlisle and Hampton go to their homes after getting their education they go back to a very considerable extent to their former lives and habits; but I think that has been overstated. I have made some investigation along that line, and I think very great good has come from the education of the Indian youth in those schools and in schools of that character.

It does seem to me that we may very well expend this small sum of $5,000 in finding homes for these Indian girls or boys and giving them an opportunity to become more useful than they otherwise would become. I will ask the Senator from North Dakota if he knows as a matter of fact that failure has attended efforts along this line. I myself have no knowledge of it whatever.

Mr. McCUMBER. Mr. President, to determine whether failure has followed one would have to consider whether success has followed in any case. I do not know of a single case of success. I do know of a number of cases where girls have been taken out of the school and, instead of being sent home, have been sent out to private employment, getting practically nothing for the time that they were employed as domestic servants. I have known of their writing letters, innumerable letters, home, begging and praying for some one to take them away from their place of employment, and having been placed out by a school they are practically there often against their own will. They do not know where to go; they have no way of getting away. If they are put into the employment of people who simply wanted to make hired help out of them, they have no way of escaping from it like a white person. It may be the case of an Indian girl from my State working for a private family in the State of New Jersey, and I have known one or two instances where they have often threatened to commit suicide if they were not released from their thraldom.

My position in this matter I may as well state now. I do not believe there is any use or anything to be gained in trying to make a white person out of an Indian, whether it is an Indian girl or an Indian boy. I do believe that the Indian girl is doing more for the civilization of the Indians, if we are doing anything at all for their civilization, than all of the schooling of the Indian girls and boys. They are taught to cook, they are taught to be housekeepers, they are taught to take a little pride in their home, and that really to me is the foundation of all progress; and when they go home to their reservations and marry in their reservations they do considerable toward keeping up a pleasant and agreeable home.

I think the salvation of the Indian would lie in the Indian

girl, so far as civilization is concerned. I must say, though, I do not think there is much hope even for that. But I do not believe it is good for an Indian girl to take her away from one of her kind, where for two or three or four months she never sees another Indian girl or anyone with whom she can associate. It is a species of imprisonment that produces, in my opinion, no good results whatever.

Mr. GALLINGER. Mr. President, I have very great regard for the opinion on a matter of this kind of the Senator from North Dakota, who lives in a State where Indians in considerable numbers are to be found. But there is one point I wish to emphasize. The instances the Senator cites are of Indian boys and girls, particularly girls, who have been put out to service directly from the schools. It will be observed that in this amendment they are to be under the direction of the Commissioner of Indian Affairs. I take it that that official, who is a very competent man, will inquire into all the circumstances of the case and not place these young Indian girls or boys in positions that they do not wish to occupy. I think there is that difference, which we ought to keep in mind.

It does seem to me, I will repeat, that it will be good legislation for us to appropriate this very small amount to make this experiment, because I take it that it is experimental at best.

Mr McCUMBER. I will simply say that it would be impossible for the Commissioner of Indian Affairs or anyone situated here in this city to look after the employment of the few individuals who would receive employment under this provision. For myself I am free to say that I think no good whatever has ever come of taking any persons away from their own tribe or nationality, segregating them and placing them where they can not even associate or see one of their own kind.

The amendment was agreed to.

The next amendment was, on page 13, line 21, after the word "supervision," to insert "and control;" so as to read:

That all expenditure of money appropriated for school purposes in this act shall be at all times under the supervision and direction of the Commissioner of Indian Affairs, and in all respects in conformity with such conditions, rules, and regulations as to the conduct and methods of instruction and expenditure of money as may be from time to time prescribed by him, subject to the supervision and control of the Secretary of the Interior, etc.

The amendment was agreed to.

The reading of the bill was resumed. The next amendment of the Committee on Indian Affairs was under the subhead "Miscellaneous," on page 15, after line 8, to insert:

That section 2 of an act of Congress entitled "An act to provide for the acquiring of rights of way of railroad companies through Indian reservations, Indian lands, and Indian allotments, and for other purposes," approved March 3, 1899, be, and the same hereby is, amended so as to read as follows:

"SEC. 2. That such right of way shall not exceed 50 feet in width on each side of the center line of the road, except where there are heavy cuts and fills, when it shall not exceed 100 feet in width on each side of the road, and may include grounds adjacent thereto for station buildings, depots, machine shops, side tracks, turn-outs, and water stations, not to exceed 200 feet in width by a length of 3,000 feet, and not more than one station to be located within any one continuous length of 10 miles of road: *Provided*, That this section shall apply to all rights of way heretofore granted to railroads in the Indian Territory where no provisions defining the width of the right of way are set out in the act granting the same."

The amendment was agreed to.

The next amendment was, under the subhead "Indian agents—Proviso," on page 19, after line 24, to strike out:

The appropriations for the salaries of Indian agents shall not take effect nor become available in any case for or during the time in which any officer of the Army of the United States shall be engaged in the performance of the duties of Indian agent at any of the agencies above named; and the Commissioner of Indian Affairs, with the approval of the Secretary of the Interior, may devolve the duties of any Indian agency or part thereof upon the superintendent of the Indian school located at such agency or part thereof whenever in his judgment such superintendent can properly perform the duties of such agency. And the superintendent upon whom such duties devolve shall give bond as other Indian agents.

And to insert:

That no army officer shall be engaged in the performance of the duties of Indian agent.

Mr. LODGE. I ask that that amendment may be passed over. It is a very important one.

The VICE-PRESIDENT. The amendment will be passed over at the request of the Senator from Massachusetts.

The reading of the bill was resumed. The next amendment of the Committee on Indian Affairs was, under the subhead "Truxton Canyon School," on page 23, line 2, after the word "reservation," to strike out "(four hundred and ninety thousand dollars);" so as to make the proviso read:

Provided further, That when said irrigation system is in successful operation, and the Indians have become self-supporting, the cost of operating the said system shall be equitably apportioned upon the lands irrigated, and to the annual charge shall be added an amount sufficient to pay back into the Treasury the cost of the work within thirty years, suitable deductions being made for the amounts received from disposal of lands which now form a part of said reservation.

The amendment was agreed to.

The next amendment was, under the subhead "Sherman Institute," on page 24, after line 11, to strike out:

For the purpose of removing obstructions from the bed of the stream which drains into the Eel River in the Round Valley Reservation, Mendocino County, Cal., $8,000.

The amendment was agreed to.

The next amendment was, on page 24, after line 15, to insert:

That the Secretary of the Interior be, and he is hereby, authorized to expend not to exceed $100,000 to purchase for the use of the Indians in California now residing on reservations which do not contain land suitable for cultivation, and for Indians who are not now upon reservations in said State, suitable tracts or parcels of land, water, and water rights in said State of California, and have constructed the necessary ditches, flumes, and reservoirs for the purpose of irrigating said lands, and the irrigation of any lands now occupied by Indians in said State, and to construct suitable buildings upon said lands, and to fence the tracts of land so purchased, and fence, survey, and mark the boundaries of such Indian reservations in the State of California as the Secretary of the Interior may deem proper. One hundred thousand dollars, or so much thereof as may be necessary, is hereby appropriated, out of any funds in the Treasury not otherwise appropriated, for the purpose of carrying out the provisions of this act.

Mr. KEAN. Before that amendment is acted on, Mr. President, I should like to hear the Senator from California [Mr. PERKINS] explain it.

Mr. PERKINS. Mr. President, my friend from New Jersey is coming out to California this season, and I shall then have an opportunity of explaining this matter to him at length. I will only say now that the Commissioner of Indian Affairs, after thoroughly considering all the surrounding conditions of those people in our State, has recommended this appropriation as being a most meritorious one, and one for which there is urgent need. I am sure when my friend from New Jersey understands the matter fully, he will not object to the amendment.

Mr. KEAN. I do not object to it, Mr. President.

The amendment was agreed to.

Mr. DUBOIS. I ask that we now go back to page 12, to the total in line 23. There was a mistake in putting the words "and sixty," in line 17. "Sixty" and "eighteen" were added by the committee to "fifteen," in line 21, making the total there $493,000. The total in lines 23 and 24 is incorrect; but the words "and sixty" should be dropped out.

My recollection is now very clear that two provisions were inserted, one of $60,000, and one of $18,000; but they were put in the wrong place. On page 12 the words "and sixty" were put under the wrong heading. They were dropped out from that heading and added in the next clause, where "fifteen" was increased by "sixty" and by "eighteen," so that the words "and sixty" should be dropped out of the bill. It is a mistake in the printing or the preparation of the bill.

Mr. CLAPP. The Senator is correct about that.

The VICE-PRESIDENT. The amendment in line 17, on page 12, will be restated.

The SECRETARY. On page 12, line 17, before the word "thousand," the amendment of the Committee on Indian Affairs is to strike out "and sixty."

The VICE-PRESIDENT. In the absence of objection, this amendment will be regarded as disagreed to. It is disagreed to; and the total, in line 23, on page 24, will stand as proposed to be amended by the committee at "$1,793,000."

The reading of the bill was resumed. The next amendment of the Committee on Indian Affairs was, under the head of "Idaho," on page 26, after line 19, to insert:

That there be appropriated from the moneys of the United States Treasury not otherwise appropriated the sum of $25,000 for completing the survey on the Fort Lemhi and the Fort Hall Indian reservations, in Idaho; expenses in connection therewith in the office of the surveyor-general for Idaho, and for the examination of said surveys; also for a reconnoissance survey and preparation of plans for a comprehensive irrigation system for Indian lands and lands ceded by the act of June 6, 1900, on the Fort Hall Reservation, in Idaho, including consideration of a possible storage system.

That before any of the lands in the Lemhi Reservation, in Idaho, ceded by the agreement concluded on May 14, 1880, set forth in the act of February 23, 1889 (25 Stat., p. 687), the provisions of which are accepted by agreement executed December 28, 1905, by a majority of all of the adult male members belonging on or occupying the said reservation, and approved by the President on January 27, 1906, be opened to settlement or entry, the Commissioner of Indian Affairs shall cause to be prepared a schedule of the improved lands to be abandoned, with a description of the improvements thereon and the name of the Indian occupant, a duplicate of which shall be filed with the Commissioner of the General Land Office.

Before entry shall be allowed of any tract of land occupied and cultivated and included in the schedule aforesaid, the Secretary of the Interior shall cause the improvements on said tract to be appraised and sold to the highest bidder.

No sale of such improvements shall be for less than the appraised value. The purchaser of such improvements shall have thirty days after such purchase for preference right of entry of the lands upon which the improvements purchased by him are situated, not to exceed 160 acres: *Provided*, That the proceeds of the sale of such improve-

ments shall be paid to the Indians owning the same: *Provided further*, That any missionary or religious society to which the Government has assigned lands in said reservation may remove or dispose of the improvements thereon within a reasonable time after the removal of the Indians to the Fort Hall Reservation, and if sold the purchaser of such improvements shall have thirty days from the date of sale thereof for preference right to entry of the lands upon which the improvements purchased by him are situated, not exceeding 160 acres.

Mr. GALLINGER. I suggest to the chairman of the committee that it would be better, I think, to change the amendment, in line 19 on page 27, and to say "and the names of Indian occupants," making it plural. There are various lands there, and I take it there are a great many occupants.

Mr. CLAPP. The committee will accept the suggestion of the Senator from New Hampshire.

The VICE-PRESIDENT. The amendment to the amendment will be stated.

The SECRETARY. It is proposed to amend the amendment of the committee, on page 27, line 19, after the words "and the," by striking out "name" and inserting "names;" and in the same line, after the word "Indian," to strike out "occupant" and insert "occupants."

The amendment to the amendment was agreed to.

The amendment as amended was agreed to.

The reading of the bill was resumed. The next amendment was, under the subhead "Coeur d'Alenes (treaty)," on page 29, after line 11, to insert:

That the Secretary of the Interior be, and he is hereby, authorized and directed, as hereinafter provided, to sell or dispose of unallotted lands in the Coeur d'Alene Indian Reservation, in the State of Idaho.

That as soon as the lands embraced within the Cœur d'Alene Indian Reservation shall have been surveyed, the Secretary of the Interior shall cause allotments of the same to be made to all persons belonging to or having tribal relations on said Cœur d'Alene Indian Reservation, to each man, woman, and child 160 acres, and, upon the approval of such allotments by the Secretary of the Interior, he shall cause patents to issue therefor under the provisions of the general allotment law of the United States.

That upon the completion of said allotments to said Indians the residue or surplus lands—that is, lands not allotted or reserved for Indian school, agency, or other purposes—of the said Cœur d'Alene Indian Reservation shall be classified under the direction of the Secretary of the Interior as agricultural lands, grazing lands, timber lands, or mineral lands, and shall be appraised under their appropriate classes by legal subdivisions, with the exception of the lands classed as mineral lands, which need not be appraised, and which shall be disposed of under the general mining laws of the United States, and, upon completion of the classification and appraisement, such surplus lands, with the exception of mineral lands, shall be opened to settlement and entry, under the provisions of the homestead laws, at not less than their appraised value, in addition to the fees and commissions now prescribed by law for the disposition of lands of the value of $1.25 per acre, by proclamation of the President, which proclamation shall prescribe the manner in which these lands shall be settled upon, occupied, and entered by persons entitled to make entry thereof: *Provided*, That the price of said lands when entered shall be fixed by the appraisement, as herein provided for, which shall be paid in accordance with rules and regulations to be prescribed by the Secretary of the Interior upon the following terms: One-fifth of the purchase price to be paid in cash at the time of entry and the balance in five equal annual installments to be paid in one, two, three, four, and five years, respectively, from and after the date of entry, and in case any entryman fails to make the annual payments, or any of them, promptly when due all rights in and to the land covered by his or her entry shall cease, and any payment theretofore made shall be forfeited and the entry canceled, and the lands shall be reoffered for sale and entry. But nothing in this act shall prevent homestead settlers from commuting their entries under section 2101 of the Revised Statutes by paying for the land entered the appraised price, receiving credit for payment previously made, but the right to commute by said entryman shall not be allowed as to any lands classified as timber land: *Provided further*, That the lands remaining undisposed of at the expiration of five years from the opening of the said lands to entry shall be sold to the highest bidder for cash, at not less than $1 per acre, under rules and regulations to be prescribed by the Secretary of the Interior, and that any lands remaining unsold ten years after the said lands shall have been opened to entry may be sold to the highest bidder for cash without regard to the above minimum limit of price: *And provided further*, That sections 16 and 36 of said lands be, and they are hereby, excepted from the foregoing provisions and are hereby granted to the State of Idaho for school purposes, and the United States shall pay to said Indians therefor the sum of $1.25 per acre: *And provided also*, That if the State of Idaho has made any selections under existing law in lieu of sections 16 and 36 of the lands affected by this act the acreage of such selections shall be deducted from the acreage to be paid for under the preceding proviso.

That the said lands shall be opened to settlement and entry by proclamation of the President, which proclamation shall prescribe the time when and the manner in which these lands may be settled upon, occupied, and entered by persons entitled to make entry thereof, and no person shall be permitted to settle upon, occupy, and enter any of said lands except as prescribed in such proclamation.

That the Secretary of the Interior shall reserve from said lands, whether surveyed or unsurveyed, such tracts for town-site purposes as in his opinion may be required for the future public interests, and he may cause any such reservations, or parts thereof, to be surveyed into blocks and lots of suitable size, and to be appraised and disposed of under such regulations as he may prescribe, and the net proceeds derived from the sale of such lands shall be paid to such Indians, as herein provided.

That the net proceeds arising from the sale and disposition of the lands aforesaid, including the sums paid for mineral and town-site lands, shall be, after deducting the expenses incurred from time to time in connection with the allotment, appraisement, and sales, and surveys herein provided, deposited in the Treasury of the United States to the credit of the Cœur d'Alene and confederated tribes of Indians belonging and having tribal rights on the Cœur d'Alene Indian Reservation, in the State of Idaho, and shall be expended for their benefit, under the direction of the Secretary of the Interior, in the education and improvement of said Indians and in the purchase of stock cattle, horse teams, harness, wagons, mowing machines, horserakes, thrashing machines, and other agricultural implements for issue to said Indians, and also for the purchase of material for the construction of houses or other necessary buildings, and a reasonable sum may also be expended by the Secretary, in his discretion, for the comfort, benefit, and improvement of said Indians: *Provided*, That a portion of the proceeds may be paid to the Indians in cash per capita, share and share alike, if in the opinion of the Secretary of the Interior such payments will further tend to improve the condition and advance the progress of said Indians, but not otherwise.

That any of said lands necessary for agency, school, and religious purposes, including any lands now occupied by the agency buildings, and the site of any sawmill, gristmill, or other mill property on said lands are hereby reserved for such uses so long as said land shall be occupied for the purposes above designated: *Provided*, That all such reserved lands shall not exceed in the aggregate 3 section and must be selected in legal subdivisions conformable to the public surveys, such selection to be made by the Indian agent of the Cœur d'Alene Agency, under the direction of the Secretary of the Interior and subject to his approval.

That the Secretary of the Interior is hereby vested with full power and authority to make all needful rules and regulations as to the manner of sale, notice of same, and other matters incident to the carrying out of the provisions of this act, and with authority to reappraise and reclassify said lands if deemed necessary from time to time, and to continue making sales of the same, in accordance with the provisions of this act, until all of the lands shall have been disposed of.

That nothing herein contained shall be construed to bind the United States to find purchasers for any of said laids, it being the purpose merely to have the United States act as trustee for said Indians in the disposition and sales of said lands and to expend or pay over to them the net proceeds derived from the sales as herein provided.

That to enable the Secretary of the Interior to allot, classify, appraise, and conduct the sale and entry of said lands as herein provided the sum of $50,000, or so much thereof as may be necessary, is hereby appropriated, from any money in the Treasury not otherwise appropriated, the same to be reimbursed from the proceeds of the sales of the aforesaid lands: *Provided*, That when funds shall have been procured from the first sales of the land the Secretary of the Interior may use such portion thereof as may be actually necessary in conducting future sales and otherwise carrying out the foregoing provisions.

The amendment was agreed to.

The next amendment was, under the head of "Indian Territory," on page 35, line 25, before the word "thousand," to strike out "thirty" and insert "fifteen;" so as to make the clause read:

For clerical work and labor connected with the sale and leasing of Creek and the leasing of Cherokee lands, $15,000.

The amendment was agreed to.

The next amendment was, at the top of page 36, to insert:

That all Choctaw and Chickasaw freedmen whose names appear upon the rolls of said tribes as approved by the Secretary of the Interior shall each have the preference right to purchase, at a valuation to be ascertained by appraisement to be hereafter made under rules and regulations prescribed by said Secretary, 80 acres of the unallotted lands of said tribes.

That there shall be reserved from allotment 1 acre of the lands of the Choctaw and Chickasaw tribes for each church under the control of or used exclusively by the Choctaw or Chickasaw freedmen; and there shall be reserved from allotment 1 acre of said lands for each school conducted by Choctaw or Chickasaw freedmen, under the supervision of the authorities of said tribes and officials of the United States, and patents shall issue, as provided by law, to the person or organization entitled to receive the same. There are also reserved such tracts as the Secretary of the Interior may approve for cemeteries; and such cemeteries may be reserved, respectively, for Indians, freedmen, and whites, as the Secretary may designate.

The amendment was agreed to.

The next amendment was, on page 37, line 2, before the words "Indian Territory," to strike out "Wagner," and insert "Wagoner;" so as to make the clause read:

That there is appropriated, out of any money in the United States Treasury not otherwise appropriated, the sum of $1,236, to pay Toney E. Proctor $2 per day in lieu of subsistence from August 13, 1899, until April 23, 1901, while serving as town-site appraiser of Wagoner, Ind. T., Creek Nation.

The amendment was agreed to.

The next amendment was, on page 37, line 11, after the word "of," to strike out "orphan Indian children at the Whittaker Home, Pryor Creek, Ind. T.," and insert:

Cherokee orphan Indian children in the Indian Territory, and that the proceeds from leasing of the lands allotted to such orphan Indian children shall be used, under direction of the Secretary of the Interior, for their care and support.

So as to make the clause read:

That the Secretary of the Interior be, and he is hereby, authorized to make such contract as in his judgment seems advisable for the care of Cherokee orphan Indian children in the Indian Territory, and that the proceeds from leasing of the lands allotted to such orphan Indian children shall be used, under direction of the Secretary of the Interior, for their care and support, and for the purpose of carrying this provision into effect, the sum of $10,000, or so much thereof as is necessary, is hereby appropriated, out of any moneys in the Treasury not otherwise appropriated.

The amendment was agreed to.

The next amendment was on page 38, after the word "dollars," to insert the following proviso:

Provided, That so much as may be necessary may be used in the employment of clerical force in the office of the Commissioner of Indian Affairs.

The amendment was agreed to.

The next amendment was in the subhead, before the word "Schools," to strike out "Superintendent of;" so as to make the subhead read "Schools."

The amendment was agreed to.

The next amendment was, on page 39, line 13, before the word "therein," to strike out "noncitizens" and insert "parents of other than Indian blood;" and in line 15, before the word "thousand," to insert "and fifty;" so as to make the clause read:

For the maintenance, strengthening, and enlarging of the tribal schools of the Cherokee, Creek, Choctaw, Chickasaw, and Seminole nations, and making provision for the attendance of children of parents of other than Indian blood therein, and the establishment of new schools under the control of the Department of the Interior, the sum of $150,000, or so much thereof as may be necessary, to be placed in the hands of the Secretary of the Interior, and disbursed by him under such rules and regulations as he may prescribe.

The amendment was agreed to.

The next amendment was, on page 39, after line 18, to insert:

That the Court of Claims be, and is hereby, authorized and empowered, upon final determination of the case or cases involving the claim of the intermarried white persons in the Cherokee Nation to share in the common property of the Cherokee people, and to be enrolled for such purpose (being Nos. 419, 420, 421, and 422, on the docket of the United States Supreme Court for October term, 1905), to ascertain and determine the amount to be paid the attorney and counsel of record for the Cherokee Indians by blood in said cases, in reimbursement of necessary expenses incurred, and as reasonable compensation for services rendered in such proceedings. Such court shall further designate the persons, class, or body of persons by whom such payment should equitably be made and the fund or funds held by the United States out of which the same shall be paid and enter a decree for the amount so found; and the sum necessary to pay the same is hereby appropriated out of the fund or funds designated by the court, and the Secretary of the Treasury shall pay the same.

The amount awarded by the court when paid shall be in full for all expenses and services of said attorney and counsel in connection with the claim of the intermarried whites.

Mr. LODGE. That clause is not only new legislation, but it is clearly a private claim, and I make the point of order against it.

Mr. CLAPP. What is the point?

Mr. LODGE. I make the point of order that it is a private claim and also new legislation.

Mr. CLAPP. I think it was held last year——

Mr. McCUMBER. What is the amendment?

Mr. CLAPP. The one relating to intermarried whites in the Cherokee Nation.

The VICE-PRESIDENT. What is the suggestion of the Senator from Minnesota?

Mr. CLAPP. I think it was held by the Senate last year, relying upon a case that came up three or four years ago, that where the effect of the amendment was to reach a tribal fund the amendment was not subject to the point of order.

If it were an appropriation of money outside of tribal funds, it would be.

Mr. LODGE. I do not make the point of order that this is an appropriation of money not estimated for. I make the point of order that it is obnoxious to the rule because it is new legislation, which seems to me obvious, and also that it is a private claim to pay attorneys.

Mr. McCUMBER. I should like to ask the Senator from Massachusetts what rule provides against new legislation. It is all new legislation.

Mr. LODGE. A change of existing law. New legislation is not in order on an appropriation bill.

Mr. McCUMBER. That prohibition is against general legislation.

Mr. GALLINGER. "General," we call it.

Mr. LODGE. The rule says:

No amendment which proposes general legislation shall be received to any general appropriation bill—

I said "new legislation" instead of "general legislation"—

nor shall any amendment not germane or relevant be received. * * * No amendment, the object of which is to provide for a private claim, shall be received to any general appropriation bill, unless it be to carry out the provisions of an existing law or a treaty stipulation.

Mr. CARTER. Mr. President, I am not familiar with the purposes of this amendment, but I assume from the wording that there must be some contract existing in these cases, providing for what the committee probably considered was an exorbitant sum, and that the purpose of the amendment is to enable the court to fix a reasonable fee in lieu of the contract fee provided for.

Mr. GALLINGER. But it makes an appropriation likewise.

Mr. CARTER. But out of the tribal funds. Some member of the committee may be able to explain whether contracts exist which would take out of the tribal fund a much larger sum than the sum here contemplated.

Mr. LODGE. It does not appear from the amendment.

Mr. CARTER. It does not so appear.

Mr. LODGE. The amendment does not suggest to my mind an economy of money at the expense of the attorneys.

Mr. CARTER. I take quite the contrary view of it from that of the Senator from Massachusetts. It has frequently occurred, as the Senator is aware, that very unconscionable contracts have been made with attorneys for Indians for the payment of fees.

Mr. LODGE. That I know.

Mr. CARTER. It is probable, I take it, that the court is called upon to fix the fees, to the end that they may not be exorbitant or unjust. The facts in this case I do not pretend to understand.

Mr. McCUMBER. I have not recently looked at the rule the Senator from Massachusetts invokes, but certainly it does not seem to me that this amendment can be subject to objection upon the ground that it is general legislation. It is special legislation directed toward a specific subject connected with this bill, which appropriates money for the support and care of the Indians. Wherein can it be said that this is general in its character? It applies to only one specific thing.

Mr. LODGE. I do not care to insist upon that point, though I know it is good. But the amendment is legislation providing for a private claim.

The VICE-PRESIDENT. The Chair will submit the point of order to the Senate under Rule XX, if it is desired.

Mr. CARTER. Before that is done, I should like to have the Senator from North Dakota, or some other member of the committee, explain the purpose of the amendment.

Mr. McCUMBER. The Senator from Minnesota is in charge of the bill.

Mr. CARTER. If it is for the protection of the Indians and in the interest of economy, I should vote one way. If it is merely a donation of fees, I should be differently inclined.

Mr. CLAPP. There is in the report of the committee a copy of a previous report upon this same question; first session "Fifty-ninth Congress," it reads here. I think it should be the Fifty-eighth. It will be found on page 26 of the report, and it gives a history of this matter. There are a great many cases of this kind pending to test the rights of intermarried whites with Cherokees. I think there was a contract. I forget the amount. So far as I am concerned, I would not care if the Senate once for all would make a rule that these matters should not go on this bill.

However, before any vote is taken I should like to submit an amendment, because when we vote it will probably show the want of a quorum.

Mr. CARTER. I suggest that the matter go over until to-morrow.

Mr. GALLINGER. I suggest, if the question is to be submitted to the Senate, that the Senator from Minnesota let the matter go over, because manifestly a vote would adjourn the Senate.

Mr. CLAPP. I ask that it be passed over.

Mr. LODGE. In order that it may go in the RECORD, as the amendment is to be passed over, I have been looking at the House report to which the Senator from Minnesota called attention, in regard to the attorneys' claim, and I find that it is a report on a bill to pay claims—a perfectly proper bill, in proper form, reported from the Committee on Indian Affairs, but not an appropriation bill.

Mr. CLAPP. I will explain that to the Senator. It has been the custom for a good many years, when the Senate committee had the Indian appropriation bill under consideration, for those people to bring their matters to that committee, and we made a sort of rule this winter that before we would consider matters of that character they must get a favorable report from the House. So they introduced this as a House bill, and they brought it over. That was done as a sort of partial protection to the committee.

Mr. LODGE. It was not put on the bill in the House, and I understand why, because a point of order would lie against it there, and it would have gone out in a moment. In fact, it would not have been let in for a second. Therefore it is brought around to us.

What I want to call attention to is that in the report occurs this language:

The Secretary of the Interior wrote a letter last year to the chairman of the Committee on Indian Affairs stating that this controversy had grown out of the administration of the affairs and distribution of the property of the Cherokee people under the authority of the United States, and that some provision should be made for adjusting the claim of the attorneys for compensation.

It is defined in this very House report as a private claim. I do not mean to say it is not a good claim; I am not attempting to pass upon it; but the Senate rule as to private claims is extremely strict, and I think it would be very bad practice

for us to get into to put private claims on general appropriation bills. I know nothing whatever of the merits of this claim. From what the House report says, I should suppose it was a claim that should be referred to the court for adjustment; but I do object very much to a claim of this kind, defined in the House report as a private claim, being placed on a general appropriation bill.

I wish this to go in the RECORD, because the matter will come up again.

The VICE-PRESIDENT. The amendment will be passed over.

The reading of the bill was resumed. The next amendment of the Committee on Indian Affairs was, under the subhead "Five Civilized Tribes," on page 40, line 20, after the word "Tribes," to strike out "exclusive of salaries and expenses of Commissioners;" so as to make the clause read:

For the completion of the work heretofore required by law to be done by the Commission to the Five Civilized Tribes, $200,000; said appropriation to be disbursed under the direction of the Secretary of the Interior.

The amendment was agreed to.

The next amendment was, on page 40, after line 23, to insert:

The Secretary of the Interior is hereby authorized and directed to reexamine the enrollment records of the Five Civilized Tribes, for the purpose of ascertaining whether said enrollment records show that persons who were minors at the time that the enrollments were made were of Indian blood on the side of either parent, and to make such transfer of the names of such minors from one roll to another as he may now determine they are entitled to on account of the facts appearing by such enrollment records.

Mr. CARTER. In line 2, page 41, I move to strike out the word "minors;" in line 3 to strike out "were;" in line 5, on the same page, to strike out the word "minors" and insert "persons;" and at the end of line 5 to strike out the words "he may now determine."

Mr. CLAPP. What is the Senator's object in moving to strike out the words "he may now determine?"

Mr. CARTER. I do not insist upon striking them out, although they would make the judgment of the Secretary of the Interior final, I think, in deciding whether either of the parties was, as a matter of law, entitled on the record to a certain standing.

Mr. CLAPP. If the Senator will pardon me, I want to protest against striking out those words. The history of the matter is simply this: In the other bill that came over there was an effort made to open up the roll down there. The Senate rejected that effort except where the right was based upon documentary evidence. Now, it appears that people were enrolled under a ruling at that time that the child followed the status of the mother. Since then the Secretary has held that it follows the status of the father. If it is left to the Secretary, and he desires to affirm his last position, he can do so. I do not think we ought, as a matter of law, to transfer it.

Mr. CARTER. Very well. I will withdraw that portion of the amendment relating to the words "he may now determine."

Mr. McCUMBER. Let me call the Senator's attention to the fact that as he proposes to amend the clause, it would be difficult to ascertain its meaning. He proposes to strike out the word "minors," in line 2, page 41; and it will then read:

For the purpose of ascertaining whether said enrollment records show that persons who were persons at the time the enrollment was made.

Mr. CLAPP. No.

Mr. CARTER. I think the Senator does not get the reading of the amendment. The amendment as I propose to amend it would read:

For the purpose of ascertaining whether said enrollment records show that persons who were at the time that the enrollments were made of Indian blood, on the side of either parent, and to make such transfer of the names of such minors from one roll to another, as he may now determine they are entitled to, on account of the facts appearing by such enrollment records.

Mr. McCUMBER. The Senator strikes out the word "minors," in the second line, and does not insert anything.

Mr. CARTER. In the second line.

The VICE-PRESIDENT. The Secretary will state the amendment proposed by the Senator from Montana.

The SECRETARY. Page 41, line 2, strike out the word "minors;" in line 3 strike out "were;" and in line 5 strike out the word "minors" and insert the word "persons."

The amendment to the amendment was agreed to.

The amendment as amended was agreed to.

The next amendment was, on page 41, after line 7, to insert:

That the Commisioner to the Five Civilized Tribes is hereby authorized to add the names of the following persons to the final roll of the citizens by blood of the Choctaw tribe: Malinda Pickens, Morris Battiest, and Samuel Sydney Burris; and the names of the following persons to the final roll of the citizens by blood of the Chickasaw tribe: Rebecca Pitts, Maggie Wade; and the name of Nancy Bigknife to the final roll of the citizens by blood of the Cherokee tribe, the said persons being either Choctaw, Chickasaw, or Cherokee Indians by blood, whose names, through neglect on their part or on the part of their parents have been omitted from the tribal rolls: *Provided*, That the enrollment of said persons by the Commissioner to the Five Civilized Tribes shall not be objected to by the said tribes, and shall be approved by the Secretary of the Interior.

The amendment was agreed to.

Mr. CLAPP. On page 41, after the amendment just agreed to, I move to insert as a new paragraph what I send to the desk.

The SECRETARY. After line 22, on page 41, it is proposed to insert:

That the Secretary of the Interior shall have prepared and printed in a permanent record book the tribal rolls of the Five Civilized Tribes, and that one copy of such record book shall be deposited in the office of the recorder in each of the recording districts for public inspection free of charge.

The amendment was agreed to.

The reading of the bill was resumed. The next amendment of the Committee on Indian Affairs was, under the subhead "Choctaws. (Treaty)," on page 43, line 8, after the word "cents," to strike out the colon and insert a period.

The amendment was agreed to.

Mr. CLAPP. On page 43, after the word "cents," in line 8, I move to insert what I send to the desk.

The SECRETARY. On page 43, after the word "cents," in line 8, it is proposed to insert:

And provided, That the Secretary of the Interior is hereby authorized, in case, after investigation, he deems it for the best interests of the tribe, to set aside 640 acres of Choctaw land for the benefit of Old Goodland Indian Orphan Industrial School, and to convey the same to said school in conjunction with the executive of the Choctaw tribe.

The amendment was agreed to.

The reading of the bill was resumed. The next amendment of the Committee on Indian Affairs was, on page 43, after line 8, to strike out:

Provided, That the Court of Claims is hereby authorized and directed to hear, consider, and adjudicate the claims against the Mississippi Choctaws of the estate of Charles F. Winton, deceased, his associates and assigns, for services rendered and expenses incurred in the matter of the claims of the Mississippi Choctaws to citizenship in the Choctaw Nation, and to render judgment thereon, on the principle of quantum meriut, in such amount or amounts as may appear equitably or justly due therefor, which judgments, if any, shall be paid from any funds now or hereafter due such Choctaws by the United States. Notice of such suit shall be served on the governor of the Choctaw Nation and the Attorney-General shall appear and defend the said suit on behalf of said Choctaws.

The amendment was agreed to.

The next amendment was, on page 43, after line 21, to insert:

Provided, That hereafter clerks and deputy clerks of United States courts in the Indian Territory who are ex officio recorders of recording districts in said Territory, shall be allowed, out of the fees received for the recording and filing of instruments, 25 per cent in addition to the sum of compensation and actual expenses for clerk hire now provided by law.

Mr. LODGE. I should like to ask the Senator from Minnesota why the increase of 25 per cent in the pay of the clerks has become necessary?

Mr. CLAPP. That was on the recommendation of the Commissioner. The fact is that provision was in the other bill, but as it was reported in the first conference I think it was so situated that it could not properly be a subject of conference; and for that reason it was put in here.

Mr. LODGE. It is a necessary increase?

Mr. CLAPP. It was so thought by the Commissioner; and I will say that the next amendment is also an amendment that got in such shape in the other bill that it could not be the proper subject of conference.

The VICE-PRESIDENT. The question is on agreeing to the amendment reported by the Committee on Indian Affairs.

The amendment was agreed to.

The reading of the bill was resumed.

The next amendment of the Committee on Indian Affairs was, on page 44, after line 3, to insert:

That section 2 of the act entitled "An act to provide for the final disposition of the affairs of the Five Civilized Tribes in the Indian Territory, and for other purposes," approved ———, 1906, be, and the same is hereby, amended by striking out thereof the words "*Provided further*, That nothing herein shall be construed so as to hereafter permit any person to file an application for enrollment in any tribe where the date for filing application has been fixed by agreement between said tribe and the United States: *Provided further*, That nothing herein shall apply to the intermarried whites in the Cherokee Nation whose cases are now pending in the Supreme Court of the United States."

The amendment was agreed to.

The next amendment was, on page 44, after line 16, to insert:

That, in addition to the places now provided by law for holding courts in the central judicial district of Indian Territory, terms of the district court of the central district shall hereafter be held at the town of Wilburton, and the United States judge of said central district is hereby authorized to establish by metes and bounds a record-

ing district for said court. That all laws regulating the holding of courts in the Indian Territory shall be applicable to the court hereby created at the town of Wilburton.

That there is hereby created in the Cherokee Nation, Indian Territory, an additional recording district, to be known as "district No. 27." Said district shall be bounded as follows: Beginning at the northwest corner of the Cherokee Nation, thence east along the north boundary line of the Cherokee Nation to the northeast corner of section 17, in township 29 north, of range 14 east; thence south to the township line at the corner of section 32; thence west along said township line to the northeast corner of section 4, in township 28 north, of range 14 east; thence south with the section line to the township line between townships 23 and 24; thence west to the dividing line between the Osage and Cherokee nations; thence north along said dividing line between the Osage and Cherokee nations to the place of beginning.

That not less than two terms of court in each year shall be held at the town of Bartlesville, in said recording district No. 27, and a United States commissioner's court shall be established in said recording district No. 27 and maintain an office at Bartlesville, in said district, and an act of Congress entitled "An act providing for the recording of deeds and other conveyances and instruments in writing in Indian Territory, and for other purposes," approved February 19, 1903, shall have the same force and effect in said district No. 27 as it has in the districts created by said act approved February 19, 1903.

That there is hereby created in Indian Territory an additional recording district, to be known as "recording district No. 28." Said district shall be bounded as follows: Beginning at the southwest corner of the Cherokee Nation, thence north along the western boundary line of the Cherokee Nation to the township line between townships 23 and 24 north; thence east along the township line between townships 23 and 24 north to the range line between ranges 14 and 15 east; thence south along the range line between ranges 14 and 15 east to the township line between townships 16 and 17 north; thence west along the township line between townships 16 and 17 north to the range line between ranges 12 and 13 east; thence north along the range line between ranges 12 and 13 east to the township line between townships 18 and 19 north; thence west along the township line between townships 18 and 19 north to the range line between ranges 10 and 11 east; thence north along said range line to the Arkansas River; thence northwest up said river to a point where it crosses the north line of the Creek Nation; thence east along the north line of the Creek Nation to the place of beginning.

That the judge of the western judicial district of Indian Territory shall hold not less than three terms of court in each year at the town of Tulsa, in said recording district No. 28; and a United States commissioner's court shall be established and maintained in said recording district No. 28, which commissioner shall maintain his office at Tulsa, in said district, and an act of Congress entitled "An act providing for the recording of deeds and other conveyances and instruments in writing in Indian Territory, and for other purposes," approved February 19, 1903, shall have the same force and effect in said recording district No. 28 as it has in the districts created by the said act approved February 19, 1903.

That all that portion of territory included in said recording district No. 28, as herein defined, lying within the boundaries of the Cherokee Nation, and being now a part of the northern judicial district of Indian Territory, shall become, and the same is hereby, attached to and made a part of the western judicial district of Indian Territory; and all of the power, authority, and jurisdiction of the United States court of the western judicial district of Indian Territory and of the judges and marshals thereof are hereby extended to and put in force over all the territory included within the boundaries of said twenty-eighth recording district as herein defined and established.

That in addition to the places now provided by law for holding courts in the southern judicial district of Indian Territory courts shall be held in the town of Duncan, and all laws regulating the holding of the courts in the Indian Territory shall be applicable to the said court hereby creafed in the said town of Duncan.

That the territory next hereinafter described shall be known as recording district No. 27, beginning at a point where township line between townships 2 and 3 north reaches the east boundary line of Oklahoma Territory; thence east on said township line 24 miles to where it intersects with range line 3 and 4 west; thence south on said range line 12 miles to where it intersects the base line between townships 1 north and 1 south; thence east along said base line 6 miles to the range line between ranges 2 and 3 west; thence south 12 miles along said range line to the township line between townships 2 and 3 south; thence west 30 miles along said township line to where it intersects with the east line of Oklahoma Territory; thence north along said line 24 miles to the place of beginning.

That the present boundaries of recording district No. 18, in the Indian Territory, is hereby amended so as to read as follows: Beginning at a point at the South Canadian River where the same intersects the range line between ranges 3 and 4 east; thence south on said range line to a section line 3 miles south of the township line between townships 4 and 5 north; thence west on said line to the meridian line between ranges 4 and 5 west; thence north on said meridian line to the South Canadian River; thence down said South Canadian River, following the meanderings thereof, to the place of beginning. The place of record for district No. 18 shall be Purcell.

That the present boundaries of recording district No. 17, in the Indian Territory, is hereby amended so as to read as follows: Beginning at a point 3 miles south of the township line between townships 4 and 5 north where said line intersects with the range line between ranges 3 and 4 east; thence south along said range line to the base line; thence west on said base line to the meridian line between ranges 4 and 5 west; thence north on said meridian line to a section line 3 miles south of the township line between townships 4 and 5 north; thence east on said section line to the place of beginning. The place of record for district No. 17 shall be Pauls Valley.

That it is further provided that all the provisions of the act of Congress approved February 19, 1903, shall apply to districts numbered 17, 18, and 27 where applicable. That all laws or parts of laws in conflict with the provisions hereof are hereby repealed.

The amendment was agreed to.

Mr. KEAN. Does the Senator from Minnesota care to go on further with the bill this evening?

Mr. CLAPP. I wish to do simply what is the pleasure of the Senate. If it is desired to have an executive session I will agree to that course.

EXECUTIVE SESSION.

Mr. KEAN. I move that the Senate proceed to the consideration of executive business.

The motion was agreed to; and the Senate proceeded to the consideration of executive business. After twenty-five minutes spent in executive session the doors were reopened, and (at 5 o'clock and 5 minutes p. m.) the Senate adjourned until to-morrow, Tuesday, April 17, 1906, at 12 o'clock meridian.

NOMINATIONS.

Executive nominations received by the Senate April 16, 1906.

ASSOCIATE JUSTICE.

Milton C. Garber, of Oklahoma, to be associate justice of the supreme court of the Territory of Oklahoma, to succeed James K. Beauchamp, whose term expires May 12, 1906.

APPOINTMENT IN THE ARMY.

Maj. Gen. Henry C. Corbin, adjutant-general, to be Lieutenant-General from April 15, 1906, vice Bates, retired from active service.

POSTMASTERS.

ARKANSAS.

Elijah O. Lefors to be postmaster at Bentonville, in the county of Benton and State of Arkansas, in place of Elijah O. Lefors. Incumbent's commission expires May 8, 1906.

CONNECTICUT.

Mary E. Bell to be postmaster at Portland, in the county of Middlesex and State of Connecticut, in place of Mary E. Bell. Incumbent's commission expires June 19, 1906.

GEORGIA.

Henry Blun, jr., to be postmaster at Savannah, in the county of Chatham and State of Georgia, in place of Henry Blun, jr. Incumbent's commission expires May 9, 1906.

ILLINOIS.

George W. Baber to be postmaster at Paris, in the county of Edgar and State of Illinois, in place of George W. Baber. Incumbent's commission expires April 26, 1906.

Chester B. Claybaugh to be postmaster at Toulon, in the county of Stark and State of Illinois, in place of Chester B. Claybaugh. Incumbent's commission expires May 19, 1906.

George J. Price to be postmaster at Flora, in the county of Clay and State of Illinois, in place of George J. Price. Incumbent's commission expires May 2, 1906.

Alonzo C. Sluss to be postmaster at Tuscola, in the county of Douglas and State of Illinois, in place of Alonzo C. Sluss. Incumbent's commission expires June 10, 1906.

KANSAS.

George T. Boon to be postmaster at Chetopa, in the county of Labette and State of Kansas, in place of George T. Boon. Incumbent's commission expires June 10, 1906.

John A. Hartley to be postmaster at Cheney, in the county of Sedgwick and State of Kansas. Office became Presidential January 1, 1906.

Ewing Herbert to be postmaster at Hiawatha, in the county of Brown and State of Kansas, in place of Ewing Herbert. Incumbent's commission expires May 19, 1906.

William A. Moriston to be postmaster at Bonner Springs, in the county of Wyandotte and State of Kansas. Office became Presidential April 1, 1906.

KENTUCKY.

Asa Bodkin to be postmaster of Bardwell, in the county of Carlisle and State of Kentucky, in place of George G. Witty. Incumbent's commission expired February 10, 1906.

Berry T. Conway to be postmaster at Lebanon, in the county of Marion and State of Kentucky, in place of Berry T. Conway. Incumbent's commission expires April 18, 1906.

A. Downs to be postmaster at Murray, in the county of Calloway and State of Kentucky, in place of David L. Redden. Incumbent's commission expired January 13, 1906.

Frank M. Fisher to be postmaster at Paducah, in the county of McCracken and State of Kentucky, in place of Frank M. Fisher. Incumbent's commission expires May 15, 1906.

William H. Harrison to be postmaster at Flemingsburg, in the county of Fleming and State of Kentucky, in place of William H. Harrison. Incumbent's commission expires May 15, 1906.

Daniel D. Hurst to be postmaster at Jackson, in the county of Breathitt and State of Kentucky, in place of Daniel D. Hurst. Incumbent's commission expires April 25, 1906.

William T. West to be postmaster at Lancaster, in the county of Garrard and State of Kentucky, in place of William T. West. Incumbent's commission expired February 10, 1906.

LOUISIANA.

Elwyn J. Barrow to be postmaster at St. Francisville, in the parish of West Feliciana and State of Louisiana, in place of Elwyn J. Barrow. Incumbent's commission expired April 5, 1906.

MAINE.

Newton H. Fogg to be postmaster at Sanford, in the county of York and State of Maine, in place of Newton H. Fogg. Incumbent's commission expires May 21, 1906.

Reuel W. Norton to be postmaster at Kennebunk Port, in the county of York and State of Maine, in place of Reuel W. Norton. Incumbent's commission expires June 30, 1906.

Willis W. Wait to be postmaster at Dixfield, in the county of Oxford and State of Maine. Office became Presidential April 1, 1906.

MASSACHUSETTS.

Thomas A. Hills to be postmaster at Leominster, in the county of Worcester and States of Massachusetts, in place of Thomas A. Hills. Incumbent's commission expires June 2, 1906.

MICHIGAN.

James Buckley to be postmaster at Petoskey, in the county of Emmet and State of Michigan, in place of James Buckley. Incumbent's commission expires May 19, 1906.

MINNESOTA.

Peter J. Schwartz to be postmaster at Shakopee, in the county of Scott and State of Minnesota, in place of Peter J. Schwartz. Incumbent's commission expires May 8, 1906.

MISSOURI.

John C. Rickey to be postmaster at Clarence, in the county of Shelby and State of Missouri, in place of Reuben N. Shanks. Incumbent's commission expired March 25, 1906.

MONTANA.

James W. McKenzie to be postmaster at Havre, in the county of Chouteau and State of Montana, in place of Charles D. Howell, resigned.

NEBRASKA.

Howard C. Miller to be postmaster at Grand Island, in the county of Hall and State of Nebraska, in place of Howard C. Miller. Incumbent's commission expires May 19, 1906.

NEW HAMPSHIRE.

Simeon M. Estes to be postmaster at Meredith, in the county of Belknap and State of New Hampshire, in place of Simeon M. Estes. Incumbent's commission expires June 5, 1906.

Eugene Lane to be postmaster at Suncook, in the county of Merrimack and State of New Hampshire, in place of Eugene Lane. Incumbent's commission expires June 5, 1906.

NEW JERSEY.

George C. Reed to be postmaster at Park Ridge, in the county of Bergen and State of New Jersey, in place of George C. Reed. Incumbent's commission expired February 28, 1906.

NEW YORK.

George E. Call to be postmaster at Northport, in the county of Suffolk and State of New York, in place of George E. Call. Incumbent's commission expires April 22, 1906.

Burt Graves to be postmaster at Middleport, in the county of Niagara and State of New York, in place of Burt Graves. Incumbent's commission expires May 14, 1906.

George M. Mayer to be postmaster at Olean, in the county of Cattaraugus and State of New York, in place of George M. Mayer. Incumbent's commission expired March 21, 1906.

OHIO.

Conrey M. Ingman to be postmaster at Marysville, in the county of Union and State of Ohio, in place of Conrey M. Ingman. Incumbent's commission expires May 19, 1906.

PENNSYLVANIA.

Christian W. Houser to be postmaster at Duryea, in the county of Luzerne and State of Pennsylvania. Office became Presidential April 1, 1906.

Harry D. Patch to be postmaster at Wilmerding, in the county of Allegheny and State of Pennsylvania, in place of Harry D. Patch. Incumbent's commission expires June 30, 1906.

Huston S. Williams to be postmaster at Fairchance, in the county of Fayette and State of Pennsylvania. Office became Presidential April 1, 1906.

TEXAS.

Caroline Cotulla to be postmaster at Cotulla, in the county of La Salle and State of Texas. Office became Presidential April 1, 1906.

VERMONT.

Frederick G. Ellison to be postmaster at Springfield, in the county of Windsor and State of Vermont, in place of Fred G. Ellison. Incumbent's commission expires June 28, 1906.

VIRGINIA.

W. Griffin to be postmaster at Salem, in the county of Roanoke and State of Virginia, in place of W. Lee Brand. Incumbent's commission expires April 26, 1906.

WEST VIRGINIA.

Lester G. Toney to be postmaster at Northfork, in the county of McDowell and State of West Virginia. Office became Presidential April 1, 1906.

WYOMING.

Otis Rife to be postmaster at Kemmerer, in the county of Uinta and State of Wyoming. Office became Presidential January 1, 1906.

CONFIRMATIONS.

Executive nominations confirmed by the Senate April 16, 1906.

DEPUTY AUDITOR FOR POST-OFFICE DEPARTMENT.

Charles H. Keating, of Ohio, to be Deputy Auditor for the Post-Office Department.

DISTRICT JUVENILE COURT JUDGE.

William H. De Lacy, of the District of Columbia, to be the judge of the juvenile court of the District of Columbia, as provided for by the act approved March 19, 1906.

RECEIVER OF PUBLIC MONEYS.

Harvey J. Ellis, of Alliance, Nebr., to be receiver of public moneys at Alliance, Nebr.

POSTMASTERS.

ILLINOIS.

John Haig to be postmaster at Le Roy, in the county of McLean and State of Illinois.

Mark L. Harper to be postmaster at Eureka, in the county of Woodford and State of Illinois.

George A. Lyman to be postmaster at Amboy, in the county of Lee and State of Illinois.

W. H. Mix to be postmaster at Byron, in the county of Ogle and State of Illinois.

William Stickler to be postmaster at Lexington, in the county of McLean and State of Illinois.

INDIANA.

Lewis Dennis to be postmaster at Salem, in the county of Washington and State of Indiana.

Bennett M. Grove to be postmaster at Liberty, in the county of Union and State of Indiana.

MAINE.

Winchester G. Lowell to be postmaster at Auburn, in the county of Androscoggin and State of Maine.

MASSACHUSETTS.

George G. Cook to be postmaster at Milford, in the county of Worcester and State of Massachusetts.

John A. Thayer to be postmaster at Attleboro, in the county of Bristol and State of Massachusetts.

MISSOURI.

William E. Coolidge to be postmaster at New Franklin, in the county of Howard and State of Missouri.

Dan McCoy to be postmaster at Sikeston, in the county of Scott and State of Missouri.

NEW HAMPSHIRE.

Lewis H. Baldwin to be postmaster at Wilton, in the county of Hillsboro and State of New Hampshire.

Thomas D. Winch to be postmaster at Peterboro, in the county of Hillsboro and State of New Hampshire.

NEW JERSEY.

John T. Kanane to be postmaster at Kenilworth (late New Orange), in the county of Union and State of New Jersey.

NEW YORK.

Frank Foggin to be postmaster at Port Richmond, in the county of Richmond and State of New York.

Max Geldner to be postmaster at New Dorp, in the county of Richmond and State of New York.

George M. Mathews to be postmaster at Brocton, in the county of Chautauqua and State of New York.

Francis H. Salt to be postmaster at Niagara Falls, in the county of Niagara and State of New York.

PENNSYLVANIA.

Martin E. Strawn to be postmaster at Starjunction, in the county of Fayette and State of Pennsylvania.

Andrew J. Sutton to be postmaster at Smithfield, in the county of Fayette and State of Pennsylvania.